

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Hayward Hall of Justice

MICHAEL DIBENE et al  
Plaintiff/Petitioner(s)  
VS.  
ALLIED WASTE SERVICES OF  
NORTH AMERICA, LLC dba  
ALLIED WASTE SERVICES OF  
ALAMEDA COUNTY or  
REPUBLIC SERVICES OF  
ALAMEDA COUNTY et al  
Defendant/Respondent  
(s)

No. 22CV023979  
Date: 08/22/2025  
Time: 2:00 PM  
Dept: 520  
Judge: Jamilah A. Jefferson

ORDER re: Hearing on Motion for  
Final Approval of  
Settlement

The Motion for Final Approval of Settlement filed by AARON PRASAD, MICHAEL DIBENE, VICTOR ROBERTS on 07/15/2025 is Granted.

After supporting declarations, the Motion of Plaintiffs Michael Dibene, Aaron Prasad and Victor Roberts ("Plaintiffs") for Final Approval of Settlement is GRANTED. The \$1,125 payment to the LWDA and \$375 payment to PAGA Members appears appropriate. The Court has also reviewed the billing entries from Plaintiffs' counsel and approves the attorney's fees (\$11,250) and associated costs (\$10,000) requested. Finally, the Court has reviewed the supporting declarations of the named class representatives seeking a service award or class enhancement payment as named in this case was filed and approves a total service award of \$4,500 to the three named Plaintiffs. (Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785, 804-807.)

All payments by Defendant shall be to the Settlement Administrator who shall, if the Settlement is given approval, distribute the funds per the Settlement Agreement.

Further, any award of attorney's fees will include a retention by the Settlement Administrator of ten percent (10%) of the fees until after the Settlement Administrator's report and account after distribution and the Court's order of approval of that final report and account.

The Court sets a compliance hearing for **Thursday, March 19, 2026** at 10:00 a.m. By March 5, 2026, Class Counsel and the settlement administrator shall submit a summary accounting of the net settlement fund identifying distributions made as ordered herein; the status of any unresolved issues; and any other matters appropriate to bring to the court's attention. Class Counsel shall also timely request dismissal when appropriate.

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**BACKGROUND**

Plaintiffs filed their initial Complaint on December 15, 2022 as a class action; on February 24, 2023, they filed a First Amended Complaint adding a cause of action for penalties as a Private Attorneys General Act (“PAGA”) enforcement action. (Register of Actions (“ROA”).)

On November 2, 2023 and June 21, 2024, the Parties participated in a mediation with David Lowe that resulted in settlement of Plaintiffs’ claims. (Kanbar Decl. ¶ 13.)

**OVERVIEW**

The Court has a “fiduciary responsibility as [guardian] of the rights of the absentee class members when deciding whether to approve a settlement agreement.” (*Duran v. Obesity Research Institute, LLC* (2016) 1 Cal.App.5th 635, 646.) Although “there is a strong public policy favoring the settlement of litigation, this policy does not excuse a contractual clause that is otherwise illegal or unjust.” (*Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) The Court must ensure the settlement is not “contrary to law or to public policy.” (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 46, 61.)

Further, the Court is obligated to ensure 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.” (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1389.) The Court “must independently and objectively analyze the evidence and circumstances before it in order to determine whether the settlement is in the best interests of those whose claims will be extinguished.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.)

***Reasonableness***

The trial court has broad discretion to determine whether the settlement is fair. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) Relevant factors to be considered include:

- 1) the strength of plaintiffs' case,
- 2) the risk, expense, complexity,
- 3) the likely duration of further litigation,
- 4) the risk of maintaining class action status through trial,
- 5) the amount offered in settlement,
- 6) the extent of discovery completed and the stage of the proceedings,
- 7) the experience and views of counsel,
- 8) the presence of a governmental participant, and
- 9) the reaction of the class members to the proposed settlement.

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(*Dunk, supra*, 48 Cal.App.4th at p. 1801.)

The Parties' Settlement Agreement generally satisfies these requirements.

## ***Proposed Settlement Agreement***

Pursuant to the Settlement, Defendant has agreed to pay the Gross Settlement Amount ("GSA") of \$75,000 to be distributed as follows:

- Class Counsel Attorney's Fees of up to \$11,250
- Class Counsel Litigation Costs of up to \$10,000
- Service Award for Class Action Representative: \$4,500 to be split into \$1,500 each
- PAGA Penalty Fund Payment of \$1,500 split as follows:
  - \$1,125 to Labor Workforce Development Agency ("LWDA")
  - \$375 to PAGA-eligible aggrieved employees
- Settlement Administrator Fees of \$5,990

All remaining GSA funds will be available to split between participating class members.

## ***The Class***

The Settlement Class consists of non-exempt employees of Defendant in the State of California from the period of December 2, 2021 through September 1, 2022. (Kanbar Decl., ¶ 21.) There are approximately 136 Class Members. (Ibid.) As no opt-out notices and objections were received, the entire Class will participate in the Settlement.

The class as defined appears to be an "ascertainable and sufficiently numerous class" with a "well-defined community of interest." (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1021; Code Civ. Proc., § 382.) The court certifies this class for purposes of settlement.

## ***Scope of Release***

The scope of the Release is limited to the parties and claims in this litigation and is therefore reasonable.

## ***Uncashed Settlement Checks***

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The proposed Settlement Agreement indicates all settlement checks that remain uncashed for more than 180 days after issuance will be tendered to the State Controller's Office. (Code Civ. Proc., § 384.)

## ***Class Counsel, Attorney Fees & Costs***

Sarah S. Kanbar and Costa Kerestenzis of Beeson, Tayer & Bodine, APC are approved as class counsel for purposes of this Settlement Agreement.

Attorney Kanbar submitted a declaration in support of the Motion for Final Approval, setting forth the fees and costs incurred by their law firm.

This Court's benchmark for fees is 30% of the total fund. (*Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 495.)

Here, 30% of GSA of \$75,000 is \$22,500. However, this Court has also engaged in a lodestar cross-check, based on the information provided in Attorney Sanbar's declaration, and finds that the claimed attorneys' fees in the amount of \$11,250 are fair and reasonable.

Attorney Shkodnik's declaration set forth a list of the costs incurred to date, totaling \$10,000. The Court finds that such costs are reasonable.

The Court awards \$11,250 in attorneys' fees and \$10,000 in costs to Beeson, Tayer & Bodine, APC. The Court further orders that 10% of the fee award be kept in the administrator's trust fund until the completion of the distribution process and Court approval of a final accounting.

## ***Class Representative Service Award***

Plaintiffs have submitted a declaration setting forth the specific nature of their participation in the action, including an estimate of the number of hours they committed to the prosecution of this case. (Blumenthal Decl., Ex. 6; *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-807.) Based on Plaintiffs' Declarations, and the record of the proceedings in this case, the Court finds the Class Representative Service Award of \$1,500 per Plaintiff to be reasonable.

## ***Claims Administrator & Fee***

Apex Class Action LLC is approved as the Settlement Administrator for this class action and PAGA settlement. Based on the Declaration of Madely Nava, including the exhibits attached thereto, the Court finds that the claimed Settlement Administrator fees of \$5,990 reasonable.

The Court will determine at the final approval hearing the actual amount of fees to be awarded

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based on a declaration from the Settlement Administrator and an itemization of costs and fees incurred in its settlement administration.

Compliance Hearing Re: Summary of Accounting is scheduled for 03/19/2026 at 10:00 AM in Department 520 at Hayward Hall of Justice.

Clerk is directed to serve copies of this order, with proof of service, to counsel and to self-represented parties of record.

The Court orders counsel to obtain a copy of this order from the eCourt portal.



**Jamilah A. Jefferson / Judge**

|                                                                                                                                                                               |                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| <p align="center"><b>SUPERIOR COURT OF CALIFORNIA<br/>COUNTY OF ALAMEDA</b></p>                                                                                               | <p align="center">Reserved for Clerk's File Stamp</p>                                                     |
| <p>COURTHOUSE ADDRESS:<br/>Hayward Hall of Justice<br/>24405 Amador Street, Hayward, CA 94544</p>                                                                             | <p align="center"><b>FILED</b><br/>Superior Court of California<br/>County of Alameda<br/>08/26/2025</p>  |
| <p>PLAINTIFF/PETITIONER:<br/>MICHAEL DIBENE et al</p>                                                                                                                         | <p>Chad Finke, Executive Officer / Clerk of the Court<br/>By: <u><i>Danielle Labrecque</i></u> Deputy</p> |
| <p>DEFENDANT/RESPONDENT:<br/>ALLIED WASTE SERVICES OF NORTH AMERICA, LLC dba ALLIED<br/>WASTE SERVICES OF ALAMEDA COUNTY or REPUBLIC<br/>SERVICES OF ALAMEDA COUNTY et al</p> | <p>D. Labrecque</p>                                                                                       |
| <p align="center"><b>CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL<br/>PROCEDURE 1010.6</b></p>                                                                             | <p>CASE NUMBER:<br/>22CV023979</p>                                                                        |

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order re: Hearing on Motion for Final Approval of Settlement entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Matthew David Lerner  
Littler Mendelson, P.C.  
mlerner@littler.com

SARAH S. KANBAR  
BEESON, TAYER & BODINE, APC  
skanbar@beesontayer.com

Dated: 08/26/2025

Chad Finke, Executive Officer / Clerk of the Court

By:

*Danielle Labrecque*

D. Labrecque, Deputy Clerk