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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

OCT 22 2024

BY Jessica Garcez
JESSICA GARCEZ, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

CHRISTINA SANCHEZ, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

BSK ASSOCIATES, a California corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: CIVSB2309732

[Honorable Joseph T. Ortiz]

[PROPOSED] FINAL APPROVAL ORDER

Date: October 22, 2024
Time: 1:30 p.m.
Dept.: S17

Action Filed: April 28, 2023
Trial Date: None Set

1 **[PROPOSED] FINAL APPROVAL ORDER**

2 The Court has before it Plaintiff Christina Sanchez's ("Plaintiff") unopposed Motion for
3 Final Approval of Class Action Settlement and Motion for Attorneys' Fees and Costs and Class
4 Representative Service Award.

5 The Court previously granted preliminary approval of the Settlement Agreement entered
6 into between Plaintiff and Defendant BSK Associates ("Defendant") (collectively, "the Parties").¹
7 The Court conditionally certified the following Class (the "Class" or "Settlement Class") for
8 settlement purposes:

9 All current and former hourly-paid or non-exempt employees of Defendant in
10 California, who are not subject to an arbitration agreement, at any time from April
28, 2019 to March 1, 2024.

11 The Court appointed, for settlement purposes, Aubry Wand of the Wand Law Firm, P.C. as
12 Class Counsel, Plaintiff as representative for the Class, and Simpluris, Inc. ("Simpluris") as the
13 Settlement Administrator.

14 The Court further directed the Parties to execute the Notice Plan, finding that it constituted
15 the best notice practicable under the circumstances and it satisfied due process. The Class Notice
16 informed Class Members of the material terms of the Settlement, including, *inter alia*, (a) the
17 nature of the case and claims asserted, (b) the claims process and procedure for Class Members to
18 follow in order to receive compensation under the Settlement; (c) the payments to Class Counsel
19 for attorneys' fees and costs, payment to the Class Representative Service Award, payment to the
20 Settlement Administrator for Settlement Administration Costs, and payment to the California
21 Labor and Workforce Development Agency ("LWDA") for PAGA penalties; (d) the claims that
22 Class Members release if they do not exclude themselves from the Settlement, (e) the right of any
23 Class Member to object to the proposed Settlement, and an explanation of the procedures to
24 exercise that right; (f) the right of any Class Member to exclude themselves from the proposed

25
26
27 ¹ Unless otherwise defined, capitalized terms used herein shall have the same meaning as defined
28 in the Settlement Agreement.

1 Settlement, and an explanation of the procedures to exercise that right; and (g) the date, time, and
2 location of the Final Approval Hearing.

3 Thereafter, Plaintiff filed a Motion for Final Approval of Class Action Settlement and a
4 Motion for Attorneys' Fees and Costs and Class Representative Service Award. Both motions are
5 now before the Court. The Court, upon Notice having been given in conformance with the
6 Preliminary Approval Order, and having considered the proposed Settlement, as well as all papers
7 filed, hereby grant both motions, and **ORDERS AS FOLLOWS:**

8 1. This Court has jurisdiction over the subject matter of the action and over all Parties
9 to the action, including all members of the Settlement Class.

10 2. The Settlement Class, defined as "All current and former hourly-paid or non-
11 exempt employees of Defendant in California, who are not subject to an arbitration agreement, at
12 any time from April 28, 2019 to March 1, 2024" is certified as a Class for settlement purposes
13 pursuant to California Code of Civil Procedure § 382 in that: (a) the Class is so numerous that
14 joinder is impractical; (b) there are questions of law and fact that are common, or of general
15 interest, to the Class, which predominate over any individual issues; (c) Plaintiff's claims are
16 typical of the claims of the Class; (d) Plaintiff and her counsel will fairly and adequately protect
17 the interests of the Class; and (e) a class action is superior to other available methods for the fair
18 and efficient adjudication of the controversy.

19 3. Class and PAGA Members were provided with notice consistent with the Court-
20 approved notice plan. *See* Declaration of Jennifer Beliveau ("Beliveau Decl.") ¶¶ 5-9.

21 4. The Net Settlement Amount is \$144,392.88. Thus, the average Individual
22 Settlement Payment that will be paid to the 148 Class Members is \$975.63. *Id.* ¶ 18.

23 5. The amount allocated to PAGA penalties is \$80,000, of which \$60,000 will be paid
24 to the LWDA. There are 239 PAGA Members, defined as "All current and former hourly-paid or
25 non-exempt employees of Defendant in California at any time from February 16, 2022 to March 1,
26 2024." These PAGA Members will receive an average Individual PAGA Payment of \$61.54. *Id.* ¶
27 19.

28 6. Two Class Members submitted a Request for Exclusion. *Id.* ¶ 13.

1 7. Zero Class Members objected to the Settlement. Beliveau Decl. ¶ 14.

2 8. Zero Class Members submitted a workweek dispute. *Id.* ¶ 15.

3 9. The notice provided to the Class, and the Notice Plan approved by the Court,

4 comply with the requirements of California Code of Civil Procedure § 382, California Rules of

5 Court 3.766 and 3.769, the California and United States Constitutions, and any other applicable

6 law, and constitutes the best notice practicable under the circumstances, by providing individual

7 notice to all Class Members who could be identified through reasonable effort, and by providing

8 due and adequate notice of the proceedings and of the matters set forth therein to the other Class

9 Members. The Class Notice fully satisfied the requirements of due process.

10 10. The Court finds the Settlement was entered into in good faith, that the Settlement is

11 fair, reasonable, and adequate, and that the Settlement satisfies the standards and applicable

12 requirements for final approval of this class action settlement under California law, including

13 California Rules of Court, Rule 3.769.

14 11. Neither the Settlement nor any of the terms set forth in the Settlement Agreement

15 are admissions by Defendant, or any of the other Released Parties, of liability on any of the

16 allegations alleged in the action, nor is this Order a finding of the validity of any claims in the

17 action, or of any wrongdoing by the Defendant, or any of the other Released Parties.

18 12. A class action settlement is presumed to be fair if: ““(1) it is reached through arm’s

19 length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to

20 act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors

21 is small.”” *Chavez v. Netflix* (2008) 162 Cal.App.4th 43, 52 (quotation omitted). The Court finds

22 that the Settlement is presumptively fair based on the foregoing factors because it was negotiated

23 based on sufficient information through arm’s-length negotiations, under the auspices of a well-

24 respected mediator, by counsel experienced in wage and hour class action litigation. Moreover, no

25 Class Members have objected to the Settlement.

26 13. Beyond determining whether a settlement is entitled to a presumption of fairness, a

27 court must further consider factors such as: (1) the strength of plaintiffs’ case; (2) the risk and

28 expense of further litigation; (3) the risk of maintaining class status through trial; (4) the amount

1 offered in settlement; (5) the extent of discovery completed; (6) the experience and views of
2 counsel; (7) the presence of a government participant; and (8) and the reaction of the class
3 members to the proposed class settlement. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794,
4 1801; *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723. The Court finds that each of
5 these factors weigh in support final approval.

6 14. First, the Court recognizes there are real risks to Plaintiff and the Class if Plaintiff
7 were to proceed with contested litigation. Declaration of Aubry Wand ("Wand Decl.") ¶ 16-22.

8 15. Second, the amount offered under the Settlement is fair and adequate. Plaintiff
9 represents that the Gross Settlement Amount represents over 10 percent of the maximum damages
10 potential if Plaintiff were able to certify, and then prevail at trial, on her claims. *Id.* ¶¶ 23-24.
11 When balanced against the risks of continued litigation, the Court finds that the Gross Settlement
12 Amount is fair and provides meaningful compensation to the Class.

13 16. Third, the Settlement was reached based on extensive investigation and informal
14 discovery, including analysis of pertinent time and payroll data and other records for the Class. *Id.*
15 ¶¶ 4-8.

16 17. Fourth, Counsel, who is experienced in wage-and-hour class action litigation,
17 endorses the Settlement as fair and reasonable and in the best interest of the Class. *Id.* ¶¶ 26-42.

18 18. Fifth, notice was provided to the LWDA, and it has not indicated that it objects to
19 or opposes the Settlement. *Id.* ¶¶ 12-15.

20 19. Finally, the reaction of the Class to the Settlement is positive. The Class consists of
21 148 employees and none of them objected to the Settlement. Beliveau Decl. ¶¶ 12, 14.

22 20. Based on consideration of the foregoing factors, and the Court's familiarity with
23 the litigation, the Court finds that the Settlement is in all respects fair, reasonable, and adequate, is
24 in the best interest of the Class, and it is hereby finally approved.

25 21. Upon entry of this Order, compensation to the Settlement Class Members shall be
26 effected pursuant to the terms of the Settlement Agreement.

27 22. In addition to any recovery that Plaintiff may receive as a Settlement Class Member
28 under the Settlement, and in recognition of Plaintiff's efforts on behalf of the Settlement Class, the

1 Court hereby approves the payment of a Class Representative Service Award in the amount of
2 \$10,000 to Plaintiff. The Court finds that this amount is appropriate based on the factors
3 articulated in *Golba v. Dick's Sporting Goods, Inc.* (2015) 238 Cal.App.4th 1251. As set forth in
4 Plaintiff's declaration, Plaintiff took on risk, both financial and in terms of future employment
5 prospects, by agreeing to act as the Class Representative, devoted considerable time and energy
6 time to this action for the benefit of the Class, agreed to a section 1542 waiver, which does not
7 apply to the release of Class Members, and achieved an excellent result for the Class. Declaration
8 of Christina Sanchez ("Sanchez Decl.") ¶¶ 5-9.

9 23. With respect to attorneys' fees, the Court approves the amount of \$126,999 based
10 on both the percentage of recovery and lodestar methods.

11 24. The Court can utilize the percentage of the recovery method. *See Laffitte v. Robert*
12 *Half International Inc.* (2016) 1 Cal.5th 480, 503 ("when class action litigation establishes a
13 monetary fund for the benefit of class members, and the trial court in its equitable powers awards
14 class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by
15 choosing an appropriate percentage of the fund created."). The Gross Settlement Amount
16 represents a true common fund, as Defendant is obligated to pay this entire amount, and no portion
17 of the Gross Settlement Amount will revert to Defendant.

18 25. In addition, the Court finds that the requested fees, which represent one-third of the
19 Gross Settlement Amount, are reasonable and appropriate. *See In re Consumer Privacy Cases*
20 (2009) 175 Cal.App.4th 545, 558 n.13 ("Empirical studies show that, regardless whether the
21 percentage method or the lodestar method is used, fee awards in class actions average around one-
22 third of the recovery."); *Singer v. Becton Dickinson & Co.*, No. 08-CV-821-IEG (BLM), 2010 WL
23 2196104, at *8 (S.D. Cal. Jun. 1, 2010) (approving fee award of 33.33% of the fund and citing two
24 cases approving fees of 40% of the fund); *Fernandez v. Victoria Secret Stores, LLC*, No. CV-06-
25 04149-MMM (SHx), 2008 WL 8150856, at *16 (C.D. Cal. Jul. 21, 2008) (holding fee award 34%
26 of the fund was fair). Thus, the percentage of the recovery method also supports the requested
27 attorneys' fees.

28 26. The lodestar is a presumptively reasonable fee. *See Perdue v. Kenny A. ex rel. Winn*

1 (2010) 559 U.S. 542, 552. Class Counsel's lodestar to date is \$88,240, Wand Decl. ¶¶ 46-52,
2 which the Court finds reasonable, based on its familiarity with the litigation, which has been
3 ongoing for over one year. A fee award of \$126,999 approximately represents a modest 1.5
4 multiplier on Counsel's lodestar, which provides further support for the reasonableness of the fee
5 award. Thus, the lodestar method supports the requested attorneys' fees.

6 27. The Court finds that the \$12,855.12 in litigation costs incurred, and requested by
7 Class Counsel, were necessary and appropriate. *Id.* ¶ 58.

8 28. Accordingly, the Court approves the payment of attorneys' fees to Class Counsel in
9 the amount of \$126,999, and reimbursement of reasonable litigation expenses in the amount of
10 \$12,578.18, to the Wand Law Firm, P.C.

11 29. The Court approves the payment of settlement administration costs in the amount
12 of \$6,750 to Simpluris.

13 30. The Court approves and orders payment in the amount of \$60,000 (which
14 represents 75% of the \$80,000 allocated for the PAGA payment) to the LWDA, which represents
15 a fair and equitable sum for resolution of claims raised pursuant to California Labor Code section
16 2698, *et seq.* The Court also approves the amount of \$20,000 (which represents 25% of the
17 \$80,000 allocated for the PAGA payment) to PAGA Members.

18 31. The Gross Settlement Amount, the Net Settlement Amount, and the methodology
19 used to calculate and pay each Class Member's and PAGA Members' settlement payments are fair
20 and reasonable, and the Court authorizes the Settlement Administrator to issue individual
21 settlement payments to each Class Member and PAGA Member pursuant to the terms of the
22 Settlement Agreement. The Court also authorizes the Settlement Administrator to issue payment
23 to the LWDA as set forth in this Order.

24 32. All Unclaimed Funds from Individual Settlement Payments and Individual PAGA
25 Payments shall be paid to Legal Aid at Work, the Cy Pres Recipient.

26 33. Upon the Effective Date, Plaintiff, and all Settlement Class Members and PAGA
27 Employees, shall have, by operation of this Order and the accompanying Judgment, fully, finally,
28 and forever released, relinquished, and discharged Defendant and Released Parties from all

Released Claims as defined under the terms of the Settlement Agreement.

34. Upon completion of the administration of the Settlement, Plaintiff shall file a declaration from the Settlement Administrator concerning the amount of money distributed and certifying completion of the administration of the Settlement. A report from Phoenix re: distribution of the Settlement funds shall be filed by on or before _____.

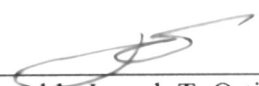
35. A Final Accounting hearing shall take place on _____ at _____ a.m. / p.m. in this Court.

36. Plaintiff's Motion for Final Approval and Motion for Attorneys' Fees and Costs and Class Representative Service Award are hereby granted, and the Court directs that a judgment shall be entered in accordance with the terms stated herein, and as set forth in the Judgment.

37. This Court shall retain jurisdiction with respect to all matters related to the administration and consummation of the Settlement, to enforce the terms of the judgment, and any and all claims, asserted in, arising out of, or related to the subject matter of the lawsuit, including but not limited to all matters related to the Settlement and the determination of all controversies relating thereto.

IT IS SO ORDERED.

DATED: Oct. 22, 2024


Honorable Joseph T. Ortiz
Judge of the Superior Court