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individually and on behalf of others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

SEBASTIAN NICOLAS, individually and on	)	CASE NO.: 23CV001218
behalf of others similarly situated,	)	
	)	CLASS ACTION
Plaintiffs,	)	
	)	Assigned For All Purposes To:
vs.	)	Judge: Hon. Jill Talley
	)	Dept.: 23
MASTERCRAFT PAINTING, INC. and DOES	)	NOTICE OF ORDER
1 through 50,	)	
	)	
Defendants.	)	
	)	
	)	Complaint Filed: May 8, 2023

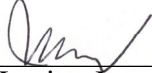
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TO EACH PARTY AND EACH PARTY’S ATTORNEY OF RECORD:

Please see attached Minute Order, dated July 12, 2024.

Dated: July 12, 2024

LAW OFFICE OF JUSTIAN JUSUF, APC

By: 
Justian Jusuf

Attorney for Plaintiff SEBASTIAN
NICOLAS, individually and on behalf of
others similarly situated

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

Gordon D. Schaber Superior Court, Department 23

JUDICIAL OFFICER: HONORABLE JILL H. TALLEY

Courtroom Clerk: T. Shaddix

Court Attendant: C. Carrillo

CSR: None

23CV001218

July 12, 2024

9:00 AM

NICOLAS, et al.

vs

MASTERCRAFT PAINTING INC, et al.

MINUTES

APPEARANCES:

Plaintiff Sebastian Nicolas represented by Justian Jusuf.

Plaintiff on behalf of other similarly situated represented by Justian Jusuf.

Defendant Mastercraft Painting Inc represented by Danyal Mico, appearing for David Merrill Daniels.

NATURE OF PROCEEDINGS: Hearing on Motion for Final Approval of Settlement

The above-entitled matter came before this Court for a motion for final approval of class action settlement with the above-named counsel present and appearing remotely via Zoom.

There being no objections from any parties the court affirms the tentative ruling.

TENTATIVE AFFIRMED

Plaintiff Sebastian Nicolas' ("Plaintiff") motion for final approval of class action settlement is UNOPPOSED and TENTATIVELY GRANTED pending the final fairness hearing. (Code Civ. Proc., § 382, Rules of Court, Rule 3.769.)

Overview

On May 8, 2023, Plaintiff filed a class action wage-and-hour complaint against Defendant Mastercraft Painting, Inc. ("Defendant"). The operative first amended complaint alleges the following causes of action: (1) failure to pay wages for all hours worked; (2) failure to provide meal periods; (3) failure to provide rest periods; (4) failure to provide accurate wage statements; (5) failure to reimburse work related expenses; (6) violation of Business and Professions Code

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section 17200; (7) penalties pursuant to the Private Attorneys General Act (“PAGA”) (failure to pay for all hours worked); (8) PAGA penalties (failure to provide meal periods); (9) PAGA penalties (failure to provide accurate wage statements); (10) PAGA penalties (failure to provide accurate wage statements); (11) PAGA penalties (failure to reimburse work related expenses); and (12) PAGA penalties (record keeping violation).

After commencement of this Action, the Parties engaged in numerous and extensive discussions regarding the case. Plaintiff also learned that Defendant is no longer in business as of March 31, 2023. (Jusuf Decl. ¶ 6.) The Parties thereafter engaged in settlement negotiations. (*Ibid.*) In connection with settlement discussions, Defendant produced time records, payroll data, and other information to allow Plaintiff and his counsel to evaluate class damages and engage in meaningful settlement discussions. (*Id.* at ¶ 7.) The Parties were able to reach a settlement and entered into a written settlement agreement. (Jusuf Decl. in Support of Preliminary Approval Motion Ex. 1 (“Agreement”).) On March 8, 2024, the Court granted preliminary settlement approval. Plaintiff now seeks final approval of this class and representative action settlement. This ruling incorporates by reference the definitions in the Agreement and all capitalized terms defined therein shall have the same meaning in this ruling as set forth in the Agreement.

Settlement Class Certification

The Court preliminarily certified the following settlement class: Any and all persons who have been employed by Mastercraft Painting, Inc. as non-exempt employees in California at any time during the Class Period (May 8, 2019 to March 31, 2023). (Agreement ¶¶ II(2) & (4).) On April 5, 2024, the settlement administrator mailed the Class Notice to all 87 Class Members. (Mitzner Decl. ¶ 6.) Ultimately, three notices were undeliverable after the settlement administrator attempted to locate updated addresses through skip tracing. (*Id.* at ¶¶ 7-8.) The deadline to respond to the Class Notice was May 20, 2024. As of June 3, 2024, there have been zero requests for exclusion, zero notices of objection, and zero workweek disputes. (*Id.* at ¶¶ 9-11.) The Court finds there has been no material change since the Court granted preliminary approval. Accordingly, the Court intends to certify the proposed class for settlement purposes only pending the outcome of the final approval hearing.

Aggrieved Employees

Aggrieved Employees are defined in the Agreement as: Class Members who were employed by Defendant during the PAGA Period (May 8, 2022 to March 31, 2023). (Agreement ¶¶ II(1) & (12).) There are a total of 30 Aggrieved Employees who worked a total of 1,071 Pay Periods. (*Id.* at ¶ II(1).) Aggrieved Employees will receive their share of the PAGA penalty regardless of whether they opt out of the Class portion of the settlement. (*Id.* at ¶ IV(D)(2) & Ex. A (“Class Notice”).) Counsel submitted a copy of the Agreement and this motion to the Labor and

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Workforce Development Agency (“LWDA”) and attached proof of submission. (Jusuf Decl. ¶ 3; Proof of Service.)

Class Representative

The Court intends to appoint Sebastian Nicolas as Class Representative for settlement purposes only.

Class Counsel

The Court intends to appoint Justian Jusuf of the Law Office of Justian Jusuf APC and Sahag Majarian II of the Majarian Law Group, APC as Class Counsel for settlement purposes.

Fair, Adequate and Reasonable Settlement

The Court must find a settlement is “fair, adequate, and reasonable” before approving a class action settlement. (*Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 244-245.) The trial court has broad discretion to determine whether a proposed settlement in a class action is fair, adequate, and reasonable. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) “[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.” (*Id.* at 1802.) In making its fairness determination, the Court considers the strength of the Plaintiffs’ case, the risk, expenses, 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, and the experience and views of counsel. (*Id.* at 1801.) In approving a class action settlement, the Court must “satisfy itself that the class settlement is within the ‘ballpark’ of reasonableness.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.)

This is a non-reversionary, opt-out settlement. Defendant will pay the Gross Settlement Amount (“GSA”) of \$85,000. (Agreement ¶ II(18).) The following will be paid out of the GSA: (1) a \$7,000 PAGA Penalty (75% of which will be paid to the Labor and Workforce Development Agency and 25% of which will be paid to Aggrieved Employees); (2) an enhancement award of \$5,000 to Plaintiff; (3) settlement administration costs of \$6,500; and (4) attorney’s fees equaling one-third of the GSA (\$28,333.33) and litigation costs in the amount of \$4,187.35 to Class Counsel; and (5) individual settlement payments. (*Id.* at ¶¶ II(9), V(B), (J), (K), (L); Mitzner Decl. ¶ 17 & Ex. B; Jusuf Decl. ¶¶ 22-25 & Exs. 1-2.)

For tax purposes, payments to Class Members will be allocated as 1/3 wages, 1/3 interest, and

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1/3 penalties. (Agreement ¶ V(J)(3).) Any funds from checks that are uncashed after 180 days will be transmitted to the California State Controller Unclaimed Property Fund. (*Id.* at ¶ V(N).) The highest individual settlement payment is approximately \$1,045.74 and the average is approximately \$363.01. (Mitzner Decl. ¶ 14.) The highest individual PAGA payment is approximately \$80.32 and the average is approximately \$60.34. (*Id.* at ¶ 15.)

Disposition

The Court tentatively finds that the settlement is fair, reasonable and adequate in light of all of the circumstances presented in the moving papers. Provided that no objection is asserted by any class member at the hearing on this matter, the Court anticipates signing the proposed order and judgment. The Court also intends to grant the request for attorney's fees, litigation costs, and the enhancement payment to the Class Representative.

The Court sets a settlement compliance hearing for February 21, 2025 at 10:30 a.m. in this department. At least 15 days prior to the hearing, counsel shall file a declaration regarding the status of the distribution of the settlement funds. If the Court is satisfied that the settlement funds have been fully distributed, no appearance will be required.

The Court orders the parties to appear. **The parties may and are encouraged to appear by Zoom with the links below:**

To join by Zoom Link - <https://saccourt-ca-gov.zoomgov.com/my/sscdept23>

To join by phone dial (833) 568-8864 ID 16108301121

Parties requesting services of a court reporter will need to arrange for private court reporter services at their own expense, pursuant to Government code section 68086 and California Rules of Court, Rule 2.956. Requirements for requesting a court reporter are listed in the Policy for Official Reporter Pro Tempore available on the Sacramento Superior Court website at <https://www.saccourt.ca.gov/court-reporters/docs/crrp-6a.pdf>. Parties may contact Court-Approved Official Reporters Pro Tempore by utilizing the list of Court Approved Official Reporters Pro Tempore available at <https://www.saccourt.ca.gov/court-reporters/docs/crrp-13.Pdf>

A Stipulation and Appointment of Official Reporter Pro Tempore (CV/E-206) is required to be signed by each party, the private court reporter, and the Judge prior to the hearing, if not using a reporter from the Court's Approved Official Reporter Pro Tempore list. Once the form is signed it must be filed with the clerk.

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If a litigant has been granted a fee waiver and requests a court reporter, the party must submit a Request for Court Reporter by a Party with a Fee Waiver (CV/E-211) and it must be filed with the clerk at least 10 days prior to the hearing or at the time the proceeding is scheduled if less than 10 days away. Once approved, the clerk will be forward the form to the Court Reporter's Office and an official reporter will be provided.

Counsel for Plaintiff is directed to notice all parties of this order.

Status Conference regarding settlement compliance is scheduled for 02/21/2025 at 10:30 AM in Department 23 at Gordon D. Schaber Superior Court.

By: */s/ T. Shaddix*
T. Shaddix, Deputy Clerk
Minutes of: 07/12/2024
Entered on: 07/12/2024

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NOTICE OF ORDER

Counsel for Defendant **MASTERCRAFT PAINTING, INC.:**

[X] (BY U.S. MAIL) enclosing the document(s) in an envelope and depositing the sealed envelope within the United States Postal Service with the postage fully prepaid. The envelope was addressed and mailed as follows:

Co-counsel for Plaintiff
SEBASTIAN NICOLAS


Justian Jusuf