

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Civil Complex Center
751 W. Santa Ana Blvd
Santa Ana, CA 92701

SHORT TITLE: Bitonti vs. Teen Road to Safety Inc.

**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC
SERVICE**

CASE NUMBER:
30-2023-01333703-CU-OE-CXC

I certify that I am not a party to this cause. I certify that that the following document(s), dated , was transmitted electronically by an Orange County Superior Court email server on May 22, 2025, at 3:26:08 PM PDT. The business mailing address is Orange County Superior Court, 700 Civic Center Dr. W, Santa Ana, California 92701. Pursuant to Code of Civil Procedure section 1013b, I electronically served the document(s) on the persons identified at the email addresses listed below:

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CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

MINUTE ORDER

DATE: 05/15/2025

TIME: 02:00:00 PM

DEPT: CX104

JUDICIAL OFFICER PRESIDING: Melissa R. McCormick

CLERK: V. Harting

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: I. Olivares

CASE NO: **30-2023-01333703-CU-OE-CXC** CASE INIT.DATE: 06/27/2023

CASE TITLE: **Bitonti vs. Teen Road to Safety Inc.**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 74458888

EVENT TYPE: Motion for Approval of Class Settlement

MOVING PARTY: David Frederick Bitonti, Jr, Merrit Lynn Chassie

CAUSAL DOCUMENT/DATE FILED: Motion - Other Approval Class Action and PAGA Settlement,
01/03/2025

APPEARANCES

No Appearance by all parties

Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement

Tentative Ruling posted on the Internet.

The Court confirms the tentative ruling, a copy of which is attached hereto and incorporated herein by reference.

Clerk to give notice to plaintiff; plaintiff to give notice as indicated in the court's final ruling.

Bitonti, et al. v. Teen Road to Safety Inc., et al.

Case No. 2023-01333703

Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement

The court has reviewed and considered the papers filed in support of plaintiffs' motion for preliminary approval of a \$220,000 class action and PAGA settlement. The court has the following questions and comments:

1. Were the motion papers served on the LWDA? Plaintiffs must file with the court a proof of service identifying the specific documents served on the LWDA, when plaintiffs served the documents and how service was effected.

As to the settlement:

2. The parties should provide the estimated high and low class payments, and the high, low and average PAGA payments.
3. The parties should provide each plaintiff's anticipated total compensation to be received (including for any individual claims and excluding any enhancement payment).
4. Should the definition of "Class" be limited to individuals who taught at least two driving lessons in a day? It otherwise appears that the class could contain members who will receive no compensation for their release of claims.
5. The "Released Parties" provision is overbroad. Settlement Agreement ¶ 1.43. It includes unidentified, ambiguous and/or unrelated third parties, e.g., "parents and subsidiaries," "spouse(s) and children," "consultants," "joint venturers, agents," and "accountants, insurers, reinsurers and/or legal representatives."
6. The phrase "upon final approval by the Court" in the first sentence of paragraph 5.3 is inconsistent with the first sentence of paragraph 5.
7. The word "include" in the first sentence of paragraph 5.3 should be replaced with "are."
8. The last two sentences of paragraph 7.6 should be revised to state that the parties shall file with the court all disputes submitted by class members, the evidence submitted, and the resolution of the disputes, and that although the settlement administrator may make the initial decision regarding claim disputes, the court may review any decision made by the settlement administrator regarding a claim dispute. Paragraph 7.8.4 of the settlement agreement and section 4(3) of the notice should also be revised accordingly.
9. While the court will not determine the amount of attorneys' fees to be awarded until final approval, the court is unlikely to approve attorneys' fees in excess of 33.33% of the gross settlement amount absent unique circumstances. Plaintiff's counsel should address in the supplemental filing whether any such unique circumstances exist here.

10. Absent unique circumstances, the court is unlikely to approve an enhancement payment to plaintiff Bitonti in excess of \$5,000. Plaintiff should submit a declaration and/or other information explaining any unique circumstances in this case that warrant the higher amount plaintiff seeks.
11. Both plaintiffs should submit declarations estimating the number of hours spent on the case.
12. Plaintiffs state that the enhancement awards they seek are in part to compensate them for providing "a general release of all known and unknown claims against Defendants." Brief (ROA 68) at 24:3-4. An enhancement award is not intended to serve as consideration for the release of additional claims, but rather to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, in some circumstances, to recognize their willingness to act as a private attorney general. The court is unlikely to approve a settlement that provides an enhancement award in exchange for a general release.
13. Defendants should advise, in a declaration filed with the court, whether, after making reasonable inquiry, they are aware of any class, representative or other collective action in any court that asserts claims similar to those asserted in this action. If any such actions are known to exist, the declarations shall also state the name and case number of any such case and the procedural status of that case, and describe the impact of the settlement on that case.
14. Plaintiff's counsel should submit evidence substantiating the amount of not-to-exceed litigation costs (e.g., itemized litigation costs incurred to date).
15. The settlement administrator's invoice states that its fees are \$4,000 (Lawrence Decl. (ROA 69) Ex. B), not \$5,000. The settlement agreement and notice should be revised accordingly.

As to the notice:

16. The notice should be revised consistent with the above.
17. The phrase "and PAGA" should be added after "Class Action" in the title and throughout the notice.
18. The fifth sentence of the last full paragraph on page 22 should be removed.
19. In the last sentence of section 1 on page 24, the word "strongly" should be removed.
20. In the first sentence of section 2 on page 24, the words "so far" should be removed, "not" should be inserted after "has" and before "made," and "no" should be replaced with "any."
21. In the second sentence of section 2 on page 24, the words "in the meantime" should be removed. The word "lengthy" should be removed in the same paragraph.

22. In the second sentence of the first paragraph at the top of page 25, the word "strongly" should be removed.
23. The court prefers that the notice be accompanied by a separate form to be completed by a class member seeking to be excluded, and a separate form to be completed by a class member wishing to object. The settlement agreement and notice should be revised accordingly.
24. The first sentence of paragraph 9 in section 3 on page 27 is inconsistent with the first sentence of paragraph 5 of the settlement agreement.
25. The first sentence of paragraph 10 in section 3 on page 27 is inconsistent with the first sentence of paragraph 5 of the settlement agreement. The description of the PAGA release in that same paragraph is inconsistent with the PAGA release stated below and in the settlement agreement.
26. Section 9 on page 30 should state that the settlement administrator will post all key documents on its website, including the operative complaint, the PAGA notices letter(s) to the LWDA, the settlement agreement and any amendments, the class notice and any included forms, the orders granting preliminary and final approval, and the judgment. The judgment should be posted for at least 180 days.

As to the proposed order (ROA 66):

27. The proposed order should be revised consistent with the above.
28. Counsel's information should be removed from the caption page.
29. The proposed order should include the Aggrieved Employees and the PAGA Period.
30. The word "preliminarily" should be inserted after "hereby" and before "appoints" in fifth paragraph on the second page of the proposed order.
31. The page numbers should be corrected.
32. The following paragraph should be added to the proposed order: "The court orders the parties and the settlement administrator to carry out their duties and obligations in accordance with terms of the settlement agreement."
33. The proposed order should state the gross settlement amount, the PAGA allocation, and the not-to-exceed amounts for plaintiff's enhancement award, attorneys' fees, litigation costs and settlement administration costs.
34. The settlement agreement and any amendments thereto and the class notice packet should be attached to the proposed order as exhibits.
35. The proposed order should include a provision the court will retain jurisdiction to enforce the settlement pursuant to Civil Procedure Code section 664.6.
36. The paragraph that states the parties' proposed final approval hearing date should also state that the motion for final approval shall be filed and served at least 16 court days before the final approval hearing.

The hearing on plaintiff's motion for preliminary approval of a class action and PAGA settlement is continued to September 4, 2025 at 2:00 p.m. in Department CX104 to permit the parties to address and respond to the above issues. See *a/so* Department CX104 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. If required, an amendment to the settlement agreement is directed, rather than "amended settlement agreement," to streamline the court's review. The parties shall also provide redlined copies of any revised documents.

Plaintiffs are ordered to provide notice, including to the LWDA, and to file a proof of service. Plaintiffs must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service.