

SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

ALBERTO CONCHAS JIMENEZ, individually, and on behalf of all others similarly situated, Plaintiff, v. THE CASTINE GROUP, et al., Defendants.) Case No.: 21CV375173)) ORDER GRANTING PLAINTIFFS') MOTION FOR FINAL APPROVAL OF) CLASS ACTION AND PAGA) SETTLEMENT))) Dept. 7)))
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This is a putative class and Private Attorneys General Act ("PAGA") action. Plaintiff Alberto Conchas Jimenez ("Plaintiff") alleges that defendant The Castine Group ("Defendant") committed various wage and hour violations. Before the Court is Plaintiff's motion for final approval of settlement, which is unopposed. For the reasons discussed below, the Court GRANTS Plaintiff's motion.

I. Background

According to the allegations of the operative First Amended Complaint ("FAC"), Plaintiff was employed by Defendant as an hourly-paid, non-exempt employee from approximately August 2019 to July 2020. (FAC, ¶ 8.) Plaintiff alleges that Defendant failed to: pay for all hours worked (including minimum wage, straight time and overtime wages); provide

ORDER GRANTING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT

1 meal periods; authorize and permit employees to take rest periods; timely pay all final wages due
2 upon termination; reimburse expenses incurred by employees in the discharge of their duties; and
3 furnish accurate wage statements. (*Id.* at ¶¶ 14-19.)

4 Based on the foregoing allegations, Plaintiff initiated this action on January 12, 2021, and
5 filed the operative FAC on April 26, 2024, asserting the following causes of action: (1) failure to
6 pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide
7 meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final
8 wages at termination; (6) failure to provide accurate itemized wage statements; (7) unfair
9 business practices; and (8) penalties under PAGA.

10 The parties reached a settlement and Plaintiff moved for preliminary approval of the
11 settlement, which the Court granted and thereafter entered a formal order memorializing its
12 decision. Now before the Court is the unopposed motion for final approval of the settlement
13 agreement.

14 **II. Legal Standard**

15 Generally, “questions whether a settlement was fair and reasonable, whether notice to the
16 class was adequate, whether certification of the class was proper, and whether the attorney fee
17 award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple*
18 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235 (*Wershba*), citing *Dunk v. Ford Motor Co.*
19 (1996) 48 Cal.App.4th 1794 (*Dunk*).)

20 “In determining whether a class settlement is fair, adequate and reasonable, the trial court
21 should consider relevant factors, such as “the strength of plaintiffs’ case, the risk, expense,
22 complexity and likely duration of further litigation, the risk of maintaining class action status
23 through trial, the amount offered in settlement, the extent of discovery completed and the stage
24 of the proceedings, the experience and views of counsel, the presence of a governmental
25 participant, and the reaction of the class members to the proposed settlement.” (*Wershba, supra*,

1 91 Cal.App.4th at pp. 244-245, citing *Dunk, supra*, 48 Cal.App.4th at p. 1801 and *Officers for*
2 *Justice v. Civil Service Com’n, etc.* (9th Cir. 1982) 688 F.2d 615, 624 (*Officers*).)

3 “The list of factors is not exclusive and the court is free to engage in a balancing and
4 weighing of factors depending on the circumstances of each case.” (*Wershba, supra*, 91
5 Cal.App.4th at p. 245.) The court must examine the “proposed settlement agreement to the extent
6 necessary to reach a reasoned judgment that the agreement is not the product of fraud or
7 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a
8 whole, is fair, reasonable and adequate to all concerned.” (*Ibid.*, quoting *Dunk, supra*, 48
9 Cal.App.4th at p. 1801 and *Officers, supra*, 688 F.2d at p. 625 [internal quotation marks
10 omitted].)

11 “The burden is on the proponent of the settlement to show that it is fair and reasonable.
12 However “a presumption of fairness exists where: (1) the settlement is reached through arm’s-
13 length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to
14 act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of
15 objectors is small.” (*Wershba, supra*, 91 Cal.App.4th at p. 245, citing *Dunk, supra*, 48
16 Cal.App.4th at p. 1802.)

17 Similar to its review of class action settlements, the Court must “determine independently
18 whether a PAGA settlement is fair and reasonable,” to protect “the interests of the public and the
19 LWDA in the enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72
20 Cal.App.5th 56, 76-77.) The Court must make this assessment “in view of PAGA’s purposes to
21 remediate present labor law violations, deter future ones, and to maximize enforcement of state
22 labor laws.” (*Id.* at p. 77.)

23 **III. Terms and Administration of Settlement**

24 The case has been settled on behalf of the following class:
25

1 [A]ll current and former non-exempt employees of the Castine Group who worked in
2 California any time or times between January 12, 2017, through the date of preliminary approval
3 of the Parties' settlement agreement by the Court, and excluding persons who are currently
4 represented by counsel and have a civil action pending, and also excluding any persons who opt-
5 out of the class.

6 According to the terms of the settlement, Defendant will pay a non-reversionary gross
7 settlement of \$485,000. The gross settlement amount includes attorney fees of up to \$161,666.67
8 (one-third of the gross settlement), litigation costs not to exceed \$50,000 and administration
9 costs not to exceed \$15,000 will be paid from the gross settlement. \$25,000 will be allocated to
10 PAGA penalties, 75% of which (\$18,750) will be paid to the LWDA, with the remaining 25%
11 (\$6,250) distributed, on a pro rata basis, to "Aggrieved Employees," who are defined as "all
12 current or former non-exempt employees who worked for the Castine Group in the State of
13 California from January 13, 2020, through the date of preliminary approval of the parties'
14 settlement agreement by the Court." Plaintiff will seek a service payment of not more than
15 \$10,000. The estimated net settlement amount will be allocated, on a pro rata basis based on the
16 number of weeks worked during the Class period, to members of the Class. Funds associated
17 with checks uncashed after 180 days will be transmitted to *cy pres* beneficiary Legal Aid at
18 Work. The court approves the designated *cy pres* recipient.¹

19 In exchange for the settlement, the class members agree to release Defendant from all
20 claims that were alleged based on the facts pleaded in the FAC occurring during the Class
21 Period.
22

23 ¹ Code of Civil Procedure section 384 requires that the unpaid residue or abandoned class
24 member funds be paid to "nonprofit organizations or foundations to support projects that will
25 benefit the class or similarly situated persons, or that promote the law consistent with the
objectives and purposes of the underlying cause of action, to child advocacy programs, or to
nonprofit organizations providing civil legal services to the indigent."

1 In its July 26, 2024 order granting preliminary approval of the settlement, the Court
2 approved ILYM Group, Inc. (“ILYM”) as the settlement administrator. On November 11, 2024,
3 Defense counsel provided ILYM with the class data file, including names, social security
4 numbers, last known mailing addresses, employment dates, and the total number of relevant
5 workweeks worked by each Class member (“Class List”). (Declaration of Cassandra Polites
6 (“Polites Decl.”), ¶ 5.) On November 22, 2024, ILYM sent the Class Notice to all 78 members
7 on the Class List. (*Id.* at ¶ 7.) As of the date of Polites Declaration, zero Class Notices have been
8 considered undeliverable. (*Id.* at ¶ 10.) As of the date of the same declaration, the settlement
9 administrator has received no objections to the settlement and no disputes from Class Members.
10 (*Id.* at ¶¶ 11-12.) According to the administrator’s calculations, the average individual settlement
11 will be approximately \$2,997.86. (*Id.* at ¶ 16.) The notice process has now been completed.

12 **IV. Enhancement Awards, Attorney Fees, and Costs**

13 The settlement Agreement provides for an enhancement award to Plaintiff in the amount
14 of \$10,000.

15 “The rationale for making enhancement or incentive awards to named plaintiffs is that
16 they should be compensated for the expense or risk they have incurred in conferring a benefit on
17 other members of the class. An incentive award is appropriate if it is necessary to induce an
18 individual to participate in the suit. Criteria courts may consider in determining whether to make
19 an incentive award include: 1) the risk to the class representative in commencing suit, both
20 financial and otherwise; 2) the notoriety and personal difficulties encountered by the class
21 representative; 3) the amount of time and effort spent by the class representative; 4) the duration
22 of the litigation and; 5) the personal benefit (or lack thereof) enjoyed by the class representative
23 as a result of the litigation. These “incentive awards” to class representatives must not be
24 disproportionate to the amount of time and energy expended in pursuit of the lawsuit.”
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1 (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395 [internal
2 punctuation and citation].)

3 Plaintiff's counsel submitted a declaration describing Plaintiff's participation in the
4 action, including a full day of depositions, written discovery, and availability for two separate
5 mediations. (Benjamin Haber Declaration ("Haber Decl.") ¶¶ 17-21.) Accordingly, the Court
6 approves an enhancement award to Plaintiff in the amount of \$10,000.

7 The Court has an independent right and responsibility to review the requested attorney
8 fees and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles*
9 *Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) "Courts recognize two methods
10 for calculating attorney fees in civil class actions: the lodestar/multiplier method and the
11 percentage of recovery method." (*Wershba, supra*, 91 Cal.App.4th at p. 254.)

12 Class counsel seeks an attorney fee award in the amount of \$161,666.67, one-third of the
13 gross settlement amount. (Haber Decl., ¶ 22.) Counsel provides evidence of a lodestar of Plaintiff
14 provides evidence of a lodestar of \$246,400, based on a total of 280 hours at rates ranging from
15 \$575 to \$1,500. (*Id.* at ¶ 23.) This results in a negative multiplier and is below the range of
16 multipliers that courts typically approve. (*Wershba, supra*, 91 Cal.App.4th at p. 255
17 ["[m]ultipliers can range from 2 to 4 or even higher".]) The benefits achieved by the settlement
18 justify an award of attorney fees to class counsel. The Court finds that the requested attorney fee
19 award is reasonable as a percentage of the common fund and approves an attorney fee award in
20 the requested amount of \$166,666.67.

21 Class counsel requests reimbursement of litigation costs in the amount of \$48,331.42.
22 Class counsel anticipates additional costs in the amount of \$300, which includes costs for filing
23 Plaintiff's Motion for Final Approval, distribution compliance report, and appearing at the
24 hearings. (Haber Decl., ¶ 31.) The Court does not award anticipatory expenses. The Court
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1 approves an award of litigation costs in the amount of \$48,331.42. The settlement administration
2 costs are also approved in the requested amount of \$4,500. (Polites Decl., ¶ 19.)

3 **V. Conclusion**

4 The motion for final approval of class and representative action settlement is GRANTED.
5 The class as defined herein is certified for settlement purposes. Judgment shall be entered
6 through the filing of this order and judgment. (Code Civ. Proc., § 668.5.) Pursuant to Rule
7 3.769(h) of the California Rules of Court, the Court retains jurisdiction over the parties to
8 enforce the terms of the settlement agreement and the final order and judgment.

9 The Court sets a compliance hearing for **October 9, 2025 at 2:30 p.m.** in Department 7.
10 At least ten court days before the hearing, class counsel and the settlement administrator shall
11 submit a summary accounting of the net settlement fund identifying distributions made as
12 ordered herein; the number and value of any uncashed checks; amounts remitted to the *cy pres*
13 recipient; the status of any unresolved issues; and any other matters appropriate to bring to the
14 court's attention. Counsel shall also submit an amended judgment as described in Code of Civil
15 Procedure section 384, subdivision (b).

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17 DATED: February 7, 2025


18 CHARLES F. ADAMS
19 Judge of the Superior Court
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