

12/18/2023

David W. Slayton, Executive Officer / Clerk of Court

FINAL RULINGS/ORDERS RE: MOTION FOR PRELIMINARY APPROVAL OF ^{R. Asaiga} Deputy
CLASS ACTION SETTLEMENT

Michelle Mason v. Eastwestproto, Inc dba Lifeline Ambulance., et al., Case No.: BC679520

The Parties' Motion for Preliminary Approval of Class Action Settlement is **GRANTED** as the settlement is fair, adequate, and reasonable on the condition that counsel provide proof of submission of the proposed settlement agreement to the LWDA.

The Parties' supplemental paperwork must be filed by **December 26, 2023.**

Non-Appearance Case Review is set for January 2, 2024, 8:30 a.m., Department 9.

The essential terms are:

- A. The Gross Settlement Amount ("GSA") is \$1,200,000.
- B. The Net Settlement Amount is the GSA minus the following:

Up to \$400,000 (33 1/3%) for attorney fees (§3.2.2)
[Fee split: 50% to Quintilone & Associates and 50% to Kabateck LLP]

Up to \$20,000 for litigation costs (Ibid.);
Up to \$10,000 (\$5,000 each) for a Service Payment to the Named Plaintiffs (§3.2.1);

Up to \$25,000 for settlement administration costs (§3.2.3);
\$25,000 (75% of PAGA penalty) to the LWDA. (§3.2.4).

- C. Plaintiffs release of Defendants from claims described herein.

The Parties' Motion for Final Approval of Class Action Settlement must be filed by **June 20, 2024.** Please call Department 9 to get a hearing date and briefing schedule.

The Parties' Motion for Final Approval of Class Action Settlement must include a concurrently lodged [Proposed] Judgment containing among other things, the class definition, full release language, and names of the any class members who

opted out; and email the [Proposed] Judgment in Word format to Dept. 9 staff at sscdept9@lacourt.org.

Non-Appearance Case Review is set for June 27, 2024, 8:30 a.m., Department 9.

I.
BACKGROUND

This is a wage and hour class action. Plaintiffs brought this action, individually and on behalf of employees similarly situated, alleging various wage and hour violations against their former employer Defendant Eastwestproto, Inc., dba Lifeline Ambulance ("Lifeline"). Defendant Lifeline employs Dispatchers and EMTs, who work at various stations throughout California.

Plaintiff Mason initiated this putative class action on October 13, 2017 in this Court alleging, (1) Failure to Pay Wages under the FLSA; (2) Failure to Pay Overtime Compensation; (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Periods; (5) Failure to Provide Accurate Itemized Wage Statements; (6) Failure to Pay Wages for Hours Worked; (7) Failure to Pay Wages Due and Payable Twice Monthly; (8) Failure to Reimburse Necessary Business Expenses; (9) Failure to Pay Wages Upon Termination; and (10) Unlawful Competition and Unfair Business Practices.

On December 19, 2017, Plaintiff Mason amended her Complaint to add a cause of action for violations of the Private Attorneys General Act ("PAGA").

On January 17, 2018, the Action was removed to the United States District Court, Central District of California and remanded on February 28, 2018.

On December 12, 2018, Plaintiff Mason filed her Second Amended Complaint, removing her FLSA claims.

On August 24, 2020, Plaintiff Mason filed her Third Amended Complaint, removing claims for meal and rest period premiums, and adding Plaintiff Anderson as a class representative. Counsel represent that prior to the Voluntary Settlement Conference and throughout the course of litigation, Plaintiffs requested and Defendants produced documentation including time and pay data records, and activity data including Computer Aided

Dispatch ("CAD"), Global Positioning System ("GPS"), and Outlook email audit trails for approximately 25% of the class, policy documents applicable to the class during the Class Period, class size information, information on the number of pay periods and workweeks, and information regarding the hourly rates and workweek. Plaintiffs' counsel also retained an experienced class action wage and hour expert to analyze Defendant's data and calculate a damage exposure.

The Parties' first mediation took place on October 31, 2018 with David Deason, Esq. and the Parties reached an impasse by noon. The second mediation, held on February 18, 2022 with Hon. Jackson Lucky (Ret.) was also unsuccessful.

Counsel then attended a Voluntary Settlement Conference on January 10, 2023 with Hon. Ruth A. Kwan in Los Angeles Superior Court, Hill Street Department 89. After a full 12-hour day at the VSC, broad contours of a resolution were proposed and discussed, and a settlement proposal was made by Judge Kwan. The Parties accepted this proposal on January 13, 2023. An unsigned copy of the Settlement Agreement was filed with the Court on March 21, 2023.

On April 12, 2023 the Court continued the preliminary approval hearing for the parties to address a checklist of items. On September 21, 2023, after Counsel filed an opposed motion to enforce the Settlement, the parties advised the Court that they came to a final settlement agreement, pursuant to which the Court ordered the parties to file and serve a new Motion for Preliminary Approval by October 25, 2023. A fully-executed copy of the resulting Settlement Agreement was filed with the Court on October 25, 2023, attached to the Declaration of Richard E. Quintilone, II ("Quintilone Decl."), as Exhibit 1.

Now before the Court is Plaintiff's motion for preliminary approval of the settlement agreement.

II.

SETTLEMENT AGREEMENT

A. Definitions.

"Class": means all persons employed as nonexempt hourly employees by LifeLine Ambulance, in the State of California, at any time during the Class Period. (§1.5.)

"Class Period": October 13, 2013, through August 3, 2023.
(¶1.13.)

"Aggrieved Employee": a person employed as a nonexempt hourly employee by LifeLine Ambulance, in the State of California, at any time during the PAGA Period. (¶1.4.)

"PAGA Period": October 13, 2016, through August 3, 2023.
(¶1.34.)

Based on a review of payroll and time records from October 13, 2013 through December 31, 2020, and estimation of workweeks and pay periods from January 1, 2021 through April 24, 2023, Defendant estimates there are approximately 2,256 Class Members who collectively worked a total of 106,597 Workweeks, and 1,738 Aggrieved Employees who worked a total of 40,571 PAGA Pay Periods. To the extent that the actual number of Class Members or Aggrieved Employees, workweeks or Pay Periods differs from Defendant's representations by more than ten percent (10%) from the Defendant's estimates based upon its review of payroll and time records from October 13, 2013 through December 31, 2020, and its estimation of workweeks and pay periods from January 1, 2021 through April 24, 2023, the Parties agree that the total settlement amount shall be adjusted accordingly. (¶9.)

The parties stipulate to class certification for settlement purposes only. (¶13.1.)

B. Terms of Settlement Agreement

The essential terms are:

- The Gross Settlement Amount ("GSA") is \$1,200,000, non-reversionary. (¶3.1)
- The Net Settlement Amount ("Net") (\$726,700) is the GSA minus the following:
 - Up to \$400,000 (33 1/3%) for attorney fees (¶3.2.2);
- Fee split: 50% to Quintilone & Associates and 50% to Kabateck LLP
 - Up to \$20,000 for litigation costs (Ibid.);
 - Up to \$10,000 (\$5,000 each) for a Service Payment to the Named Plaintiffs (¶3.2.1);
 - Up to \$25,000 for settlement administration costs (¶3.2.3);and
 - Payment of \$25,000 (75% of \$18,750 PAGA penalty) to the LWDA. (¶3.2.4)

- "Payroll Tax Liability" means any and all federal, state, and local tax liabilities including without limitation income and payroll taxes, due on each Participating Class Member's Wage Portion Before Taxes, irrespective of whether the said tax liability is or could have been satisfied by the Defendant's contribution of the tax, or withholding from the employee's wages, or through a combination of both. For the avoidance of doubt, Payroll Tax Liability includes, but is not limited to, federal income tax, state income tax, Social Security and Medicare taxes, which make up the Federal Insurance Contributions Act (FICA), Employer's Annual Federal Unemployment (FUTA) tax, the Additional Medicare Tax, the State of California's Unemployment Insurance (UI), Employment Training Tax (ETT), the California Personal Income Tax (PIT), the California State Disability Insurance (SDI) tax, local taxes, and any interest or penalties potentially due thereon. (§1.41.)

- Funding of Settlement: Defendant must have the Gross Settlement Amount available by December 31, 2023, or 14 calendar days after the Effective Date, whichever is later. (§3.1)

- No claim form is required. (§3.1)

- Individual Settlement Payment Calculation: Calculation of Payroll Tax Liability and Individual Class Payment: The Administrator shall Calculate Payroll Tax Liability on each Participating Class Member's Wage Portion Before Taxes, as follows: Step One. Subtract from the Gross Settlement Amount the amounts calculated in Sections 3.2.1, 3.2.2, 3.2.3, and 3.2.4 of this Agreement to obtain the Net Settlement Amount Before Taxes (to the extent the amounts of distributions approved by the Court in the Final Approval Order differ from the sums stated Sections 3.2.1. through 3.2.4., the Administrator shall follow the Final Approval Order). Step Two. Divide the Net Settlement Amount Before Taxes by the total number of Workweeks of all Participating Class Members during the Class Period. Step Three. Multiply the total number of Workweeks worked by each Participating Class Member by the result determined in Step two to obtain the Individual Class Payment Before Taxes for each Participating Class Member. Step Four. Calculate the Wage Portion Before Taxes for each Participating Class Member (which is equal to 20% of the Individual Class Payment Before Taxes) by multiplying the Individual Class Payment Before Taxes for each Participating Class Member by 0.20. Step Five. Determine each Participating Class Member's Payroll Tax Liability on the Wage Portion Before Taxes. Step Six. Subtract each Participating Class Member's Payroll Tax Liability from the Wage Portion Before Taxes, and then add the resulting sum to the remaining Eighty Percent (80%)

of each Participating Class Member's Individual Class Payment. (¶3.2.5.)

o Tax Allocation: 20% wages; 80% non-wages. (¶3.2.6)

• PAGA Payments: The Administrator shall calculate each Individual PAGA Payment by: (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$6,250.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period, and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. (¶3.2.4.1.)

• "Response Deadline" means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired. (¶1.51.) This deadline applies to workweek calculation challenges too. (¶8.6.)

o If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from Settlement. (¶10.)

• Uncashed Settlement Checks: The face of each check shall prominently state the date (180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. (¶4.4.1) For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). (¶4.4.3)

• The settlement administrator will be ILYM Group. (¶8.1.)

• Notice of Final Judgment will be posted on the Settlement Administrator's website. (¶8.8.1.)

• [Proof of submission of the proposed settlement agreement to the LWDA.]

• Participating class members and the named Plaintiff will release certain claims against Defendants. (See further discussion below)

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III.
DISCUSSION

A. Does a Presumption of Fairness Exist?

1. Was the settlement reached through arm's-length bargaining? Yes. The Parties' first mediation took place on October 31, 2018 with David Deason, Esq. and the Parties reached an impasse by noon. The second mediation, held on February 18, 2022 with Hon. Jackson Lucky (Ret.) was also unsuccessful. Counsel then attended a Voluntary Settlement Conference on January 10, 2023 with Hon. Ruth A. Kwan in Los Angeles Superior Court, Hill Street Department 89. (Quintilone Decl., ¶35.) After a full 12-hour day at the VSC, broad contours of a resolution were proposed and discussed, and a settlement proposal was made by Judge Kwan. The Parties accepted this proposal on January 13, 2023. (Quintilone Decl., ¶36).

2. Were investigation and discovery sufficient to allow counsel and the court to act intelligently? Yes. Counsel represent that prior to the Voluntary Settlement Conference and throughout the course of litigation, Plaintiffs requested and Defendants produced documentation including time and pay data records, and activity data including Computer Aided Dispatch ("CAD"), Global Positioning System ("GPS"), and Outlook email audit trails for approximately 25% of the class, policy documents applicable to the class during the Class Period, class size information, information on the number of pay periods and workweeks, and information regarding the hourly rates and workweek. (Motion, 3:4-9.) Plaintiffs' counsel also retained an experienced class action wage and hour expert to analyze Defendant's data and calculate a damage exposure. (¶33.)

3. Is counsel experienced in similar litigation? Yes. Class Counsel is experienced in class action litigation, including wage and hour class actions. (Quintilone Dec. ¶¶ 3-4; Id. at ¶¶ 53-62; Declaration of Jerusalem Beligan, ¶ 8.)

4. What percentage of the class has objected? This cannot be determined until the fairness hearing. (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2014) ¶ 14:139.18, ["Should the court receive objections to the proposed settlement, it will consider and either sustain or overrule them at the fairness hearing."].)

The Court concludes that the settlement is entitled to a presumption of fairness.

B. Is the Settlement Fair, Adequate, and Reasonable?

1. Strength of Plaintiff's case. "The most important factor is the strength of the case for plaintiff on the merits, balanced against the amount offered in settlement." (Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 130.)

Class Counsel has provided information, summarized below, regarding the estimated exposure for each of the claims alleged:

Violation	Maximum Exposure	Realistic Exposure
Unpaid Wages Based on Rounded Time	\$155,206.72	\$77,603.36
Damages for Failure to Reimburse	\$532,985.00	\$159,895.50
Failure to Pay Wages at Separation	\$6,000,019.20	\$2,400,096.00
Wage Statement Claim	\$3,970,200.00	\$1,588,080.00
PAGA	\$8,283,840.00	\$25,000.00
TOTAL	\$18,942,250.92	\$4,250,674.86

(Quintilone Decl. ¶¶ 37-47.)

2. Risk, expense, complexity and likely duration of further litigation. Given the nature of the class claims, the case is likely to be expensive and lengthy to try. Procedural hurdles (e.g., motion practice and appeals) are also likely to prolong the litigation as well as any recovery by the class members.

3. Risk of maintaining class action status through trial. Even if a class is certified, there is always a risk of decertification. (Weinstat v. Dentsply Intern., Inc. (2010) 180 Cal.App.4th 1213, 1226 ("Our Supreme Court has recognized that trial courts should retain some flexibility in conducting class actions, which means, under suitable circumstances, entertaining successive motions on certification if the court subsequently discovers that the propriety of a class action is not appropriate.").)

4. Amount offered in settlement. Plaintiff's counsel obtained a \$1,200,000 non-reversionary settlement. This constitutes approximately 6.34% of Defendant's maximum exposure and 28.23% of Defendant's realistic exposure. Given the uncertain outcomes, the settlement appears to be within the "ballpark of reasonableness."

The \$1,200,000 settlement amount, if reduced by the requested deductions, will leave \$726,700 to be divided among approximately 2,256 class members. The resulting payments will average \$322.12 per class member. [$\$726,700 / 2,256 = \322.12].

5. Extent of discovery completed and stage of the proceedings. As indicated above, at the time of the settlement, Class Counsel had conducted sufficient discovery.

6. Experience and views of counsel. The settlement was negotiated and endorsed by Class Counsel who, as indicated above, is experienced in class action litigation, including wage and hour class actions.

7. Presence of a governmental participant. This factor is not applicable here.

8. Reaction of the class members to the proposed settlement. The class members' reactions will not be known until they receive notice and are afforded an opportunity to object, opt-out and/or submit claim forms. This factor becomes relevant during the fairness hearing.

The Court concludes that the settlement can be preliminarily deemed fair, adequate, and reasonable.

C. Scope of the Release

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows (§16.):

Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, causes of action, liabilities, costs, expenses, and attorney's fees, that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including, without limitation, any and all claims involving any alleged failure to pay minimum wage, overtime compensation, and for all hours worked, failure to pay wages twice in a calendar month, failure to furnish accurate itemized wage statements, failure to pay all wages at termination or separation from employment, claims of unlawful rounding of hours worked, claims for off-the-clock work, wage

statement penalties, waiting time penalties, PAGA claims and penalties, failure to reimburse business expenses, and the California Unfair Competition Law, Cal. Bus. & Prof Code § 17200 et seq. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period. (¶6.2.)

Release by Aggrieved Employees: All Aggrieved Employees, including, Participating and Non-Participating Class Members, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties, and associated costs, expenses, and attorney's fees, that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and/or in the PAGA Notice. (¶6.3.)

Release by Class Counsel: Class Counsel release on behalf of themselves, and each of their present and former attorneys, employees, agents, successors, and assigns the Released Parties from all claims for the PAGA Fees incurred in connection with the Operative Complaint, the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice, and the Released Parties shall have no liability to Class Counsel or to any Aggrieved Employee for said PAGA Fees, except as provided under section 3.2.2 of this Agreement. (¶6.4)

"Released Parties" means: LifeLine Ambulance, the named Defendant in this Action, and each of its former and present directors, officers, shareholders, owners, members, attorneys, agents, managers, partners, insurers, predecessors, successors, assigns, subsidiaries, joint venturers, affiliates, and family members of all individuals released herein. (¶1.49.)

Named Plaintiff will also provide a general release and CC § 1542 waiver. (¶6.1.)

D. May Conditional Class Certification Be Granted?

A detailed analysis of the elements required for class certification is not required, but it is advisable to review each element when a class is being conditionally certified

(Amchem Products, Inc. v. Winsor (1997) 521 U.S. 620, 622-627.) The trial court can appropriately utilize a different standard to determine the propriety of a settlement class as opposed to a litigation class certification. Specifically, a lesser standard of scrutiny is used for settlement cases. (Dunk at 1807, fn 19.) Finally, the Court is under no "ironclad requirement" to conduct an evidentiary hearing to consider whether the prerequisites for class certification have been satisfied. (Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 240, disapproved on another ground in Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260.)

1. Numerosity. There are approximately 2,256 class members. (Quintilone Decl. ¶18.) This element is met.

2. Ascertainability. The proposed class is defined above. The class definition is "precise, objective and presently ascertainable." (Sevidal v. Target Corp. (2010) 189 Cal.App.4th 905, 919.) All Class Members are identifiable through a review of Defendant's employment records. (Motion, 18:6-8.)

3. Community of interest. "The community of interest requirement involves three factors: '(1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.'" (Linder v. Thrifty Oil Co. (2000) 23 Cal.4th 429, 435.)

Regarding commonality, Plaintiffs contends that common questions of law and fact predominate because the California statutes relating to each of Plaintiffs' claims, and Defendants' defenses thereto, apply with equal force and effect to all Class Members. Factually, Plaintiffs contend that Defendants policies and practices apply class-wide and Defendants' liability can be determined by facts common to all members of the class. (MPA at 19:10-15.)

As to typicality, Plaintiffs contend Plaintiffs' wage and hour claims are typical of the proposed Settlement Class because they arise from the same factual bases and are based on the same legal theories applicable to the other Class Members. (Id. at 19:16-20.)

As to adequacy, Plaintiffs represent that they were informed of the risks of serving as class representative, participated in the litigation, and does not have conflicts of interest with the class. (Id. at 19:18-22; Declaration of

Plaintiff Temple Anderson, passim; Declaration of Plaintiff Michelle Mason, passim.)

4. Adequacy of class counsel. As indicated above, Class Counsel has shown experience in class action litigation, including wage and hour class actions.

5. Superiority. Given the relatively small size of the individual claims, a class action appears to be superior to separate actions by the class members.

The Court finds that the class may be conditionally certified because the prerequisites of class certification have been satisfied.

E. Is the Notice Proper?

1. Content of class notice. The proposed notice is attached to the Settlement Agreement. Its content appears to be acceptable. It includes information such as: a summary of the litigation; the nature of the settlement; the terms of the settlement agreement; attorney fees and costs; enhancement awards; the procedures and deadlines for participating in, opting out of, or objecting to, the settlement; the consequences of participating in, opting out of, or objecting to, the settlement; and the date, time, and place of the final approval hearing.

2. Method of class notice. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. (¶4.2.) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data. (¶8.4.1.)

Using best efforts to perform as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice (in English only) substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the

number of Workweeks and PAGA Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database. (§8.4.2.) No later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time. (§8.4.3.)

3. Cost of class notice. As indicated above, settlement administration costs are estimated to be \$24,550. Prior to the time of the final fairness hearing, the claims administrator must submit a declaration attesting to the total costs incurred and anticipated to be incurred to finalize the settlement for approval by the Court.

F. Attorney Fees and Costs

CRC rule 3.769(b) states: "Any agreement, express or implied, that has been entered into with respect to the payment of attorney fees or the submission of an application for the approval of attorney fees must be set forth in full in any application for approval of the dismissal or settlement of an action that has been certified as a class action."

Ultimately, the award of attorney fees is made by the court at the fairness hearing, using the lodestar method with a multiplier, if appropriate. (PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084, 1095-1096; Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615, 625-626; Ketchum III v. Moses (2000) 24 Cal.4th 1122, 1132-1136.) Despite any agreement by the parties to the contrary, "the court ha[s] an independent right and responsibility to review the attorney fee provision of the settlement agreement and award only so much as it determined reasonable." (Garabedian v. Los Angeles Cellular Telephone Company (2004) 118 Cal.App.4th 123, 128.)

The question of whether Class Counsel is entitled to \$400,000 (33 1/3%) in attorney fees and up to \$20,000 in costs will be addressed at the final fairness hearing when class counsel brings a noticed motion for attorney fees. Class counsel must provide the court with billing information so that

it can properly apply the lodestar method and must indicate what multiplier (if applicable) is being sought as to each counsel.

Class Counsel should also be prepared to justify the costs sought by detailing how they were incurred.

G. Incentive Award to Class Representative

The named Plaintiffs will request a service award of \$10,000 total (\$5,000 to each named Plaintiff). (¶3.2.1.)

In connection with the final fairness hearing, the named Plaintiff must submit a declaration attesting to why he should be entitled to an enhancement award in the proposed amount. The named Plaintiff must explain why he "should be compensated for the expense or risk she has incurred in conferring a benefit on other members of the class." (Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785, 806.) Trial courts should not sanction enhancement awards of thousands of dollars with "nothing more than pro forma claims as to 'countless' hours expended, 'potential stigma' and 'potential risk.' Significantly more specificity, in the form of quantification of time and effort expended on the litigation, and in the form of reasoned explanation of financial or other risks incurred by the named plaintiffs, is required in order for the trial court to conclude that an enhancement was 'necessary to induce [the named plaintiff] to participate in the suit" (Id. at 806-807, italics and ellipsis in original.)

The Court will decide the issue of the enhancement award at the time of final approval.

IV.
CONCLUSION

Based upon the foregoing, the Court orders that:

1) The Parties' Motion for Preliminary Approval of class action settlement is GRANTED as the settlement is fair, adequate, and reasonable on the condition that counsel provide proof of submission of the proposed settlement agreement to the LWDA.

2) The Parties' supplemental paperwork must be filed by December 26, 2023.

3) Non-Appearance Case Review is set for January 2, 2024, 8:30 a.m., Department 9.

4) The essential terms are:

A. The Gross Settlement Amount ("GSA") is \$1,200,000.

B. The Net Settlement Amount is the GSA minus the following:

Up to \$400,000 (33 1/3%) for attorney fees (¶3.2.2)
[Fee split: 50% to Quintilone & Associates and 50% to Kabateck LLP]

Up to \$20,000 for litigation costs (Ibid.);
Up to \$10,000 (\$5,000 each) for a Service Payment to the Named Plaintiffs (¶3.2.1);

Up to \$25,000 for settlement administration costs (¶3.2.3);

\$25,000 (75% of PAGA penalty) to the LWDA. (¶3.2.4).

C. Plaintiffs release of Defendants from claims described herein.

5) The Parties' Motion for Final Approval of Class Action Settlement must be filed by June 20, 2024. Please call Department 9 to get a hearing date and briefing schedule.

6) The Parties' Motion for Final Approval of Class Action Settlement must include a concurrently lodged [Proposed] Judgment containing among other things, the class definition, full release language, and names of the any class members who opted out; and email the [Proposed] Judgment in Word format to Dept. 9 staff at sscdept9@lacourt.org.

7) Non-Appearance Case Review is set for June 27, 2024, 8:30 a.m., Department 9.

CLERK TO GIVE NOTICE TO MOVING PARTY. THE MOVING PARTY TO GIVE NOTICE TO ALL OTHER PARTIES.

IT IS SO ORDERED.

DATED: December 18, 2023



Yvette M. Palazuelos

YVETTE M. PALAZUELOS
JUDGE OF THE SUPERIOR COURT
Yvette M. Palazuelos / Judge