

FINAL RULINGS/ORDERS RE: MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT

Edgar J. Beltran Rivas v. Kember Flooring, Inc.,
21STCV19215

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles
NOV 30 2022
Sherri R. Carter, Executive Officer/Clerk of Court
By: Roxanne Arraiga, Deputy

The Parties' Motion for Preliminary Approval of Class Action Settlement is **GRANTED** as the settlement is fair, adequate, and reasonable.

The essential terms are:

A. The Gross Settlement Amount ("GSA") is \$1,150,000. (¶I.P) [Class Workweek Modification: Defendant represented that the total number of workweeks worked by class members from May 20, 2017 through December 31, 2021 is approximately 14,600 workweeks. If the total number of workweeks in the Class Period exceeds by more than fifteen percent (15%) of that number (i.e., more than 16,790 workweeks), the Net Settlement Fund shall be increased by the percentage by which that actual number of workweeks exceeds 16,790 (example, if the actual workweeks in the Class Period are 17,126, then the Net Settlement Fund shall be increased by 2 percent) (17,126 divided by 16,790).] (¶III.C.5)

B. The Net Settlement Amount ("Net") (\$681,166.67) is the GSA minus the following:

Up to \$383,333.33 (33 1/3%) for attorney fees (¶III.B.2);

Up to \$25,000 for litigation costs (Ibid.)

Up to \$10,000 for a service award to the Named Plaintiff (¶III.B.1);

Up to \$13,000 for settlement administration costs (¶III.B.4); and

\$37,500 (75% of \$50,000 PAGA penalty) to the LWDA (¶III.B.3).

C. All Employer Taxes shall be paid by Defendants separately in addition to the GSA. (¶I.P)

D. Plaintiffs release of Defendants from claims described herein.

The Parties' Motion for Final Approval of Class Action Settlement must be filed by July 3, 2023. The parties are

ordered to contact the Clerk in Department 9 to obtain a hearing date for their motion.

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

Non-Appearance Case Review is set for July 10, 2023, 8:30 a.m., Department 9.

I.
BACKGROUND

Plaintiff Edgar J. Beltran Rivas sues his former employer, Defendant Kember Flooring, Inc., for alleged wage and hour violations. Defendant operates supplies, manufactures, and installs cabinetry and hardwood floors. Plaintiff seeks to represent a class of Defendant's current and former non-exempt employees.

On May 20, 2021, Plaintiff filed a class action complaint against Defendant alleging causes of action for: (1) Failure to pay minimum wages in violation of Labor Code §§ 1194 and 1197; (2) Failure to pay overtime wages in violation of California Labor Code § 510; (3) Failure to provide meal breaks in violation of California Labor Code §§ 226.7 and 512 and the applicable IWC Wage Order; (4) Failure to provide rest breaks in violation of California Labor Code §§ 226.7 and 512 and the applicable IWC Wage Order; (5) Failure to timely pay earned wages in violation of Labor Code § 204; (6) Failure to provide accurate itemized wage statements in violation of California Labor Code § 226; (7) Failure to timely pay all earned wages due at time of separation of employment in violation of Labor Code §§ 201, 202, and 203; and (8) Unfair Business Practices in violation of Business and Professions Code § 17200.

On December 20, 2021, Plaintiff filed a First Amended Complaint adding a cause of action for civil penalties pursuant to the Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA").

On January 13, 2022, the parties mediated before Mark Rudy, Esq., which ultimately resulted in settlement. The terms were

finalized in the Class Action Settlement Agreement ("Settlement Agreement"), a copy of which is attached to the Declaration of Melissa A. Huether ("Huether Decl.") as Exhibit 1.

On July 6, 2022, the Court issued a "checklist" to the parties pertaining to deficiencies in the proposed settlement. In response, the parties filed further briefing, including the Amended Settlement Agreement attached to Plaintiff's Supplemental Briefing ISO Prelim and the attached supplemental Declaration of Melissa A. Huether ("Supp. Huether Decl.") as Exhibit 3.

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

II. SETTLEMENT AGREEMENT

A. Definitions

"Class": all non-exempt hourly employees who work or worked for Defendant in California, during the four years immediately preceding the filing of the Complaint and until the conclusion of the Class Period. (¶I.B)

"Class Period": May 20, 2017 through the earlier of (a) April 20, 2022, or (b) the date on which the Court enters an Order granting preliminary approval of this Settlement. (¶I.H)

The "PAGA Group": a sub-group of the Class and means all individuals employed by Defendant during the PAGA Period as non-exempt hourly employees. (¶I.B)

"PAGA Period": May 20, 2020 through the earlier of (a) April 20, 2022, or (b) the date on which the Court enters an Order granting preliminary approval of this Settlement. (¶I.H)

"Participating Class Member": a Class Member who does not submit a valid and timely Request for Exclusion. (¶I.T)

The Parties stipulate to class certification for settlement purposes only. (¶II.G)

B. Terms of Settlement Agreement

The essential terms are as follows:

- The Gross Settlement Amount ("GSA") is \$1,150,000, non-reversionary. (§I.P)
 - Class Workweek Modification: Defendant has represented that the total number of workweeks worked by class members from May 20, 2017 through December 31, 2021 is approximately 14,600 workweeks. If the total number of workweeks in the Class Period exceeds by more than fifteen percent (15%) of that number (i.e., more than 16,790 workweeks), the Net Settlement Fund shall be increased by the percentage by which that actual number of workweeks exceeds 16,790 (example, if the actual workweeks in the Class Period are 17,126, then the Net Settlement Fund shall be increased by 2 percent) (17,126 divided by 16,790). (§III.C.5)
- The Net Settlement Amount ("Net") (\$681,166.67) is the GSA minus the following:
 - Up to \$383,333.33 (33 1/3%) for attorney fees (§III.B.2);
 - Up to \$25,000 for litigation costs (Ibid.)
 - Up to \$10,000 for a service award to the Named Plaintiff (§III.B.1);
 - Up to \$13,000 for settlement administration costs (§III.B.4); and
 - Payment of \$37,500 (75% of \$50,000 PAGA penalty) to the LWDA (§III.B.3).
- Defendant shall be responsible for paying employer-side taxes separately and in addition to the GSA. (§I.P)
- No Claim Form. Class Members will not have to submit a claim form in order to receive their settlement payment. (§III.A)
- Response Deadline. "Response Deadline" means no later than forty-five (45) days after the Settlement Administrator mails the Class Notice Packets. (§III.E.3.a)
 - If more than seven percent (7%) of the Class Members timely submit valid Request for Exclusion, Defendant will have the right, but not the obligation, to void the Settlement. (§III.E.4)
- Individual Settlement Payment Calculation. The Settlement Share for each Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the total number of workweeks worked for all Participating Class Members that occurred during the Class Period and (b) multiplying the result by each individual Participating Class Member's workweeks worked that occurred during the Class Period. In addition, each Participating Class Member who separated employment during the Class Period shall receive an additional five (5) workweeks credit in determining that Class Member's Settlement Share; provided that any such employee who both separated employment

and who was subsequently rehired during the Class Period shall not receive the credit of five (5) additional workweeks. (§III.C.2)

o PAGA Payments: The pro-rata shares for PAGA Group Members will be similarly determined by comparing the number of PAGA pay periods worked by each PAGA Group Member to the total number of PAGA Pay Periods for all PAGA Group Members worked during the PAGA Period. Payments to PAGA Group Members for their share of the PAGA Group Amount is referred to as the "Individual PAGA Share." (§III.C.2)

o Effect of Non-Participating Class Members: Non-Participating Class Members will receive no Settlement Share, and their Request for Exclusion will not reduce the Gross Settlement Amount. Their respective Settlement Shares will remain a part of the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis relative to their Settlement Shares. Non-Participating Class Members who worked during the PAGA Period and are deemed PAGA Group Members will still receive an Individual PAGA Share. (§III.C.4)

o Tax Allocation. Each Individual Settlement Share will be allocated as follows: 1/3 as wages and 2/3 as penalties and interest. Any payment for an Individual PAGA Share will be allocated as penalties. (§III.C.3)

• Funding and Distribution of Settlement. Defendant shall fund the gross settlement amount or One Million One Hundred Fifty Thousand Dollars (\$1,150,000.00) and the amount necessary to pay Defendant's share of payroll taxes within 14 days after all of the following have occurred: (1) The court gives final approval to the proposed settlement; (2) The court enters final judgment; and (3) The time within which to appeal any final judgment has expired. Notwithstanding the foregoing, if any appeal is taken, Defendant will not be required to fund the settlement until all appeals have been resolved and the judgment is no longer subject to appeal. (§III.E.9)

o Within fifteen (15) days after Defendant funds the Gross Settlement Amount, the Settlement Administrator will pay to Participating Class Members, their Settlement Shares; to PAGA Group Members, their Individual PAGA Shares; to the LWDA, the LWDA Payment; to Plaintiff, the Class Representative Service Payment; to Class Counsel, their Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment; and to the Settlement Administrator, the Settlement Administration Expenses. (§III.E.9)

• Uncashed Checks. A Participating Class Member and/or PAGA Group Members must cash his or her Settlement Share checks within 180 days after it is mailed to him or her. If a check is returned to the Settlement Administrator, the Settlement

Administrator will make all reasonable efforts to re-mail it to the Participating Class Member at his or her correct address. If the check remains uncashed by the expiration of the 180-day period after it is mailed to the Participating Class Member, the funds from such uncashed checks will be paid to the California State Controller's Unclaimed Property Fund in the name of the Participating Class Member, and the Participating Class Member will remain bound by the Settlement. (¶III.E.10)

- Phoenix Settlement Administrators will perform settlement and notice administration. (¶I.X)
- The Settlement Agreement was submitted to the LWDA on November 9, 2022. (Supp. Huether Decl., Exhibit 6.)
- Notice of Entry of Judgment will be posted on the settlement administrator's website. (Notice pg. 6)
- Participating class members and the named Plaintiff will release certain claims against Defendants. (See further discussion below)

III. DISCUSSION

A. Does a Presumption of Fairness Exist?

1. Was the settlement reached through arm's-length bargaining? Yes. On January 13, 2022, the parties mediated before Mark Rudy, Esq., which ultimately resulted in settlement. (Huether Decl. ¶7.)

2. Were investigation and discovery sufficient to allow counsel and the court to act intelligently? Yes. Class Counsel represents that prior to mediation, the Parties engaged in informal discovery exchange including, but not limited to, Defendant's handbook and policies; a sampling of time and wage records for approximately 25% of the class; 100% of Plaintiff's wage statements; the number of employees (current and former) and number of employees during the PAGA Period; the number of workweeks; number of pay periods; number of individuals terminated during the relevant time period; average hourly rate of pay; and Plaintiff's counsel's analysis and Plaintiff's expert's analysis of both the aforementioned data. (Id. at ¶8.)

3. Is counsel experienced in similar litigation? Yes. Class Counsel is experienced in class action litigation. (Id. at ¶24; Declaration of Arie Ebrahimian ¶24.)

4. What percentage of the class has objected? This cannot be determined until the fairness hearing. (See 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 factual basis for, and estimated maximum exposure for each of the claims alleged.

Violation	Maximum Exposure
Unpaid Wages	\$613,620.00
Meal Periods	\$663,255.36
Rest Periods	\$1,282,270.08
Wage Statements	\$1,448,000.00
Timely Wages During Employment	\$1,427,800.00
Waiting Time	\$826,560.00
PAGA Penalties	\$8,672,700.00
Total	\$14,934,205.44

(Huether Decl. ¶¶ 12-21.)

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. (See 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 calculated Defendant's maximum exposure at \$14,934,205.44. The \$1,150,000 settlement amount represents approximately 7.7% of Defendant's maximum potential damages which, given the uncertain outcomes, is within the "ballpark of reasonableness."

The \$1,150,000 settlement amount, after reduced by the requested deductions, leaves approximately \$681,166.67 to be divided among approximately 362 putative class members. Assuming full participation, the resulting payments will average approximately \$1,881.67 per class member. [$\$681,166.67 \text{ Net} / 362 = \$1,881.67$]

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

Release of Claims by Participating Class Members. As of the date the Judgment becomes Final and upon the full payment of the Gross Settlement Amount and associated employee's payroll taxes, Defendant and the other Released Parties shall be entitled to a release of any and all claims, debts, liabilities, demands, actions or causes of action arising in or based upon events during the Class Period, which are alleged, or reasonably could have been alleged based on the facts and claims asserted in the

First Amended Complaint, including all claims for restitution and other equitable relief, claims for unpaid minimum and overtime wages, timeliness of earned wages, liquidated damages, meal and rest period premiums, waiting time penalties, unfair business practices, and failure to provide accurate wage statements ("Released Class Claims"), and all claims for civil or statutory penalties arising out of the Participating Class Members' Released Claims. The Released Claims expressly exclude all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and claims arising outside of the Class Period. (§III.F.1)

PAGA Group Members: As of the date the Judgment becomes Final and upon the full payment of the Gross Settlement Amount and associated employer's payroll taxes, Defendant and the other Released Parties shall be entitled to a release of any and all claims, debts, liabilities, demands, actions or causes of action arising in or based upon events during the PAGA Period, which are alleged, or reasonably could have been alleged based on the facts and claims asserted in the notice to the LWDA on May 24, 2021 ("Released PAGA Claims"). (§III.F.2)

"Released Parties" means Defendant, together with all of Defendant's current and former parents, subsidiaries, predecessors, successors, affiliates, and related entities, and its and their respective shareholders, officers, principals, directors, employees, trustees, agents, and benefit plans. The persons so released shall include Kember Kreative Interiors and Kember Hardwood Flooring, inc., and their officers, shareholders, principals, directors, employees, agents, trustees and benefit plans. (§I.V)

Named Plaintiff will provide a general release and \$1542 waiver. (§§ III.F.3-4)

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 362 Class Members. (MPA at 18:2-4.) 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. (MPA at 18:13-14.)

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, Plaintiff contends that The common questions of law and fact include, but are not limited to: 1) Whether Defendant failed to pay Class Members at the minimum wage; 2) Whether Defendant failed to pay Class Members at their overtime wage; 3) Whether Defendant failed to provide the Class Members meal period premium wages for missed meal periods; 4) Whether Defendant failed to provide the Class Members rest period premium wages for missed rest periods; 5) Whether Defendant failed to provide the Class Members complete and accurate wage statements; 6) Whether Defendant failed to pay Class Members all wages during employment; 7) Whether Class Members are entitled to waiting time penalties for Defendant's failure to pay all wages upon separation of employment; and 8) Whether Defendant violated Business and Professions Code section 17200. (MPA at 18:25-19:8.)

Regarding typicality, Plaintiff contends that his claims are typical of the claims of the class members as a whole. Plaintiff was an hourly non-exempt employee of Defendant and therefore suffered the same alleged violations (e.g. failure to pay wages for all hours of work at the minimum wage rate, failure to pay wages for all hours of work at the overtime wage rate, failure to provide meal periods and meal period premium wages, failure to pay rest period premium wages for missed

and/or non-compliant rest periods, failure to provide complete and accurate wage statements, and failure to pay all wages due upon separation of employment) as the class as a whole did. (MPA at 18:5-12.)

Finally, as to adequacy, Plaintiff represents that he has participated in the litigation, is aware of the risks of serving as class representative, and does not have conflicts with the class. (Declaration of Edgar J. Beltran Rivas ¶¶ 6-9.)

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. A copy of the revised proposed notice to class members is attached to the Settlement Agreement as Exhibit A. 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; the proposed deductions from the gross settlement amount (attorney fees and costs, enhancement awards, and claims administration costs); 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.

The Settlement Administrator shall provide Notices to Class Members in English and Spanish. (¶III.E.2.b)

2. Method of class notice. No later than seven (7) business days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendant will provide to the Settlement Administrator an electronic database containing each Class Member's Class Data. Class Data will otherwise remain confidential and will not be disclosed to anyone, except as required to applicable taxing authorities, in

order to carry out the reasonable efforts described in section III.E.2.c., pursuant to Defendant's express written authorization or by order of the Court, or to Class Counsel in order to carry out their fiduciary duties to the Class. All Class Data will be used for settlement notification and settlement administration and shall not be used for any other purpose by Class Counsel. (§III.E.2.a)

The Settlement Administrator will mail the Class Notice Packets to all Class Members via first-class regular U.S. Mail no later than seven (7) calendar days after receiving the Class Data, using the mailing address information provided by Defendant. Prior to mailing the Class Notice Packet to Class Members, the Settlement Administrator shall run a check of the addresses in the Class Data against any reported address changes in the National Change of Address Database ("NCOA") maintained by the U.S. Postal Service. The Class Data will be updated for any known and located address changes prior to the initial mailing. (§III.E.2.b)

If a Class Notice Packet is returned because of an incorrect address and without a forwarding address, the Settlement Administrator will promptly, and not longer than ten (10) days from receipt of the returned packet, search for a more current address using a skip trace or similar method for the Class Member and re-mail the Class Notice Packet to the Class Member within three (3) business days. The Settlement Administrator will use the Class Data and otherwise work with Defendant to find that more current address. If a Class Notice Packet is returned with a forwarding address, the Settlement Administrator will promptly re-mail the Class Notice Packet to the forwarding address within three (3) business days. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, Court orders, and fee, as agreed to with Class Counsel and according to the following deadlines, to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. In the case of a remailed Notice Packet, the Class Member will receive an additional ten (10) calendar days from the Response Deadline to respond to the Notice Packet. The remailed Notice Packet will reflect the extended Response Deadline. (§III.E.2.c)

3. Cost of class notice. As indicated above, settlement administration costs are estimated to be \$13,000. Prior to the time of the final fairness hearing, the settlement 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 \$383,333.33 (33 1/3%) in attorney fees will be addressed at the 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.

There is a fee split. Plaintiff's Counsel, Lavi & Ebrahimian LLP and E&L, LLP have entered into a fee splitting agreement. Plaintiff consented to the fee split agreement in writing in accordance with Rules of Prof. conduct 1.5.1. (Supp. Huether Decl. ¶10.)

Class Counsel should also be prepared to justify the costs sought (capped at \$25,000) by detailing how they were incurred.

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G. Incentive Award to Class Representative

The Settlement Agreement provides for an enhancement award of up to \$10,000 for the class representative (§III.B.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.

2) The essential terms are:

A. The Gross Settlement Amount ("GSA") is \$1,150,000. (§I.P) [Class Workweek Modification: Defendant represented that the total number of workweeks worked by class members from May 20, 2017 through December 31, 2021 is approximately 14,600 workweeks. If the total number of workweeks in the Class Period exceeds by more than fifteen percent (15%) of that number (i.e., more than 16,790 workweeks), the Net Settlement Fund shall be increased by the percentage by which that actual number of workweeks exceeds 16,790 (example, if the actual workweeks in the Class Period are 17,126, then the Net Settlement Fund shall

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\$37,500 (75% of \$50,000 PAGA penalty) to the LWDA
(¶III.B.3).

C. All Employer Taxes shall be paid by Defendants separately in addition to the GSA. (¶I.P)

D. Plaintiffs release of Defendants from claims described herein.

3) The Parties' Motion for Final Approval of Class Action Settlement must be filed by July 3, 2023. The parties are ordered to contact the Clerk in Department 9 to obtain a hearing date for their motion.

4) 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 class members who opted out; and the parties must email the [Proposed] Judgment in Word format to Dept. 9 staff at sscdept9@lacourt.org.

5) Non-Appearance Case Review is set for July 10, 2023, 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: November 30, 2022

YVETTE M. PALAZUELOS

YVETTE M. PALAZUELOS
JUDGE OF THE SUPERIOR COURT