

02/01/2024

David W. Slayton, Executive Officer / Clerk of Court

E. Asraiga Deputy

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

Carmona, et al. v. Certified Alloy Products, Inc., et al., Case No.: 21STCV03308

The Parties' Motion for Final 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 \$1,000,000.
- B. The Net Settlement Amount is the GSA minus the following:

\$333,333 (1/3) for attorney fees to Class Counsel, Lavi & Ebrahimian, LLP and the Law Offices of Sahag Majarian II, (55% to Lavi & Ebrahimian, LLP and 45% to the Law Offices of Sahag Majarian II).

\$14,568.37 for attorney costs to Class Counsel.

\$5,000 for an incentive award to Plaintiff Danny

Carmona.

\$10,500 for claims administration costs to CPT Group, Inc.

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

C. The employer's share of payroll taxes will be paid separately by Defendant in addition to the GSA. (¶14.)

D. Plaintiffs release of Defendants from claims described herein.

By **March 1, 2024**, Class Counsel must give notice to the class members pursuant to California Rules of Court, rule 3.771(b) and to the LWDA, if applicable, pursuant to Labor Code §2699 (1) (3).

By **February 3, 2025**, Class Counsel must file a Final Report re: Distribution of the settlement funds.

Court sets a **Non-Appearance Case Review for February 10, 2025, 8:30 AM, Department 9.**

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I.
INTRODUCTION

A. Background

This is a wage and hour class action. Defendant Certified Alloy Products, Inc.¹ ("CAPI" or "Defendant") is located in Long Beach, California, and is a leading manufacturer of high performance vacuum-refined superalloys for use in aerospace and industrial gas turbine engines, among other demanding applications. In 2001, CAPI was acquired by Doncasters plc, a European based corporation, which is a leading international engineering group that manufactures precision components and assemblies for aerospace, industrial gas turbines, and other markets.

On January 26, 2021, Plaintiff Danny Carmona filed the Class Action complaint, Case No. 21STCV03308, in which he alleged (1) Failure to Pay Wages For All Hours Worked At Minimum Wage in Violation of Labor Code Sections 1194 and 1197, (2) Failure to Pay Overtime Wages for Daily Overtime Worked In Violation Of Labor Code Section 510 and 1194, (3) Failure to Pay Reporting Time Pay In Violation of Labor Code Sections 1194, 1197, and 1198, (4) Failure to Authorize or Permit Meal Periods In Violation of Labor Code Sections 512 and 226.7, (5) Failure to Authorize or Permit Rest Periods in Violation of Labor Code Section 226.7, (6) Failure to Timely Pay Earned Wages During Employment in Violation of Labor Code Section 204, (7) Failure to Provide Complete and Accurate Wage Statements in Violation of Labor Code Section 226, (8) Failure to Timely Pay All Earned Wages and Final Paychecks Due at Time of Separation of Employment in Violation of Labor Code Sections 201, 202, and 203, and (9) Unfair Business Practices, in Violation of Business and Professions Code Sections 17200, et seq. ("Class Complaint").

On April 8, 2021, Plaintiff filed the PAGA Action complaint, Case No. 21STCV13416, in which he alleged the following causes of action: (1) Civil Penalties Pursuant to the Private Attorney's General Act of 2004 ("PAGA"), Labor Code Section 2698, et seq. for allegations violations of Labor Code Sections 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558 1194, 1197, 1198, 1198.5, 2698, et seq. and the IWC Wages Orders, which includes allegations of (a) Failure to pay wages

¹ CAPI was erroneously sued as two different entities in the Lawsuits. There is no standalone entity by the name of "Doncasters Certified Alloy Products, Inc.," nor has there ever been an entity that has operated under that name.

for all hours worked at the legal minimum wage, (b) Failure to pay wages for overtime hours worked at the overtime rate of pay, (c) Failure to provide reporting time pay, (d) Failure to pay wages to hourly non-exempt employees for workdays that Defendants failed to provide legally required and compliant meal periods, (e) Failure to pay wages to hourly non-exempt employees for workdays that Defendants failed to provide legally required and compliant rest periods, (f) Failure to timely pay earned wages during employment, (g) Failure to provide complete and accurate wage statements, and (h) Failure to pay employees all wages due at time of termination/resignation ("PAGA Complaint").

On or about July 1, 2021, to keep litigation costs to a minimum, the Parties agreed to attend mediation with mediator Jeff Ross. The Parties further agreed to engage in an informal exchange of documents and to stay both the Class Action and PAGA Action until April 12, 2022.

Counsel represent that prior to the mediation, Defendants provided Plaintiff with informal discovery exchange which included the following: (1) a 20% random and representative sampling of electronic time and pay data for the putative class members and alleged aggrieved employees; (2) the total number of current and former putative class members and aggrieved employees who worked during the relevant time periods; (3) the number of former putative class members and aggrieved employees that ended their employment with Defendant during the relevant time periods; (4) the total number of workweeks at issue during the relevant time periods; (5) the total number of pay periods at issue during the relevant time periods; (6) the number of shifts over 5 hours, 6 hours, and 10 hours worked by putative class members and aggrieved employees; (7) the average hourly rate for the putative class members; (8) copies of CAPI's employee handbooks used during the class period; (9) Defendant's timekeeping policies, including policies regarding checking-in and checking-out, attendance and tardiness, employee schedules, payment of wages, and meal period and rest break policies; (10) IWC Wage Orders posted at all CAPI sites; (11) photos of all California and federal postings; (12) payroll calendars; and (13) other relevant information, including Plaintiff's personnel file, wage statements, and time records.

On March 22, 2022, the Parties attended a full day mediation session with Jeff Ross, an experienced wage and hour class action and PAGA-action mediator where the Parties reached an agreement to settle all of the claims alleged in Plaintiff's PAGA Complaint and the Class Complaint.

Between March 23, 2022, and March 25, 2022, the Parties continued negotiations, and with the assistance by Jeff Ross, entered into a Memorandum of Understanding ("MOU").

On June 3, 2022, Plaintiff filed a First Amended Complaint which added Plaintiff's PAGA claim to the pending Class Action as part of the terms of the Settlement.

A partially executed copy of the Settlement Agreement was filed with the Court on August 30, 2022 attached to the Declaration Of Melissa Huether ("Huether Decl.") ISO Preliminary Approval as Exhibit 1.

On February 7, 2023, the court issued a checklist of items for counsel to address and continued preliminary approval. On response, on March 1, 2023, counsel provided supplemental briefing.

On March 14, 2023, the court issued a checklist of items for counsel to address and continued preliminary approval. On response, on July 12, 2023, counsel provided further supplemental briefing (2nd Supp. Brief") ISO Preliminary Approval with a fully executed Amended Settlement Agreement attached thereto as Exhibit 2.

Preliminary Approval was granted on August 2, 2023.

The Parties now move for final approval of the proposed class action settlement.

B. Definitions.

"Class" or "Class Members": all current and former hourly-paid or nonexempt employees employed by CAPI within the State of California at any time during the Settlement Period. Any Class Member who does not opt out or submit a Request for Exclusion is a "Settlement Class Member" and shall be bound by the terms of the Agreement. (§2.01.)

"Settlement Period": January 26, 2017, through and including May 31, 2022. (§2.44.)

There are 209 Class members, 208 participating Class Members, and the combined workweeks amount to 22,040. (Thopson Decl., §8.)

"PAGA Releasee": an individual who was employed by Defendant within the State of California at any time as a non-exempt or hourly-paid employee during the PAGA Settlement Period. (¶2.26.)

"PAGA Settlement Period": January 26, 2020, through and including May 31, 2022. (¶2.28.)

There are 126 PAGA Members who worked a combined 5,357 pay periods. (Thompson Decl., ¶9.)

The parties stipulate to certification for settlement purposes only. (¶4.11.)

C. Terms of Settlement Agreement

The essential terms are:

- The Gross Settlement Amount ("GSA") is \$1,000,000, non-reversionary. (¶4.4.)
- The Net Settlement Amount ("Net") (\$587,767) is the GSA minus the following:
 - Up to \$333,333 (33.33%) for attorney fees (¶4.7.);
 - Fee Split: 55% to Lavi & Ebrahimian, LLP and 45% to the Law Offices of Sahag Majarian II. (2nd Supp. Brief Preliminary Approval, 2: 17-25.)
 - Up to \$20,000 for litigation costs (Ibid.);
 - Up to \$9,900 for a Service Payment to the Named Plaintiff (¶4.8.);
 - Up to \$11,500 for settlement administration costs (¶4.9.);
 - and
 - Payment of \$37,500 (75% of \$50,000 PAGA penalty) to the LWDA. (¶4.6.)
- Defendants will pay their share of taxes sperate from the GSA. (¶4.4.)
- Funding of Settlement: Within twenty-one (21) business days after the Effective Date, Defendant shall pay the settlement sum of \$1,000,000.00 and the amount that the Settlement Administrator advises is due for Employer Taxes. (¶7.1.)
- There is no claim form requirement. (Notice, pg. 8.)
- Individual Settlement Payment Calculation: Settlement Class Members will receive a pro rata share of the Net Settlement Amount, based on their respective number of Workweeks at Issue in the Settlement Period as compared to the total Workweeks of all Settlement Class Members in the Settlement Period. (¶4.5.1.a.)

- o Tax Allocation: 33.33% as wages and 33.33% penalties and 33.33% as interest. (¶4.10.)
- PAGA Payments The remaining 25% of the \$50,000.00 PAGA Payment, which amounts to \$12,500.00, shall be distributed pro rata to all PAGA Releasees, based on the number of PAGA Pay Periods worked by a PAGA Releasee, as a fraction of the total PAGA Pay Periods worked of all PAGA Releasees. There are approximately 2,600 PAGA Pay Periods. (¶4.6.)
- o Tax Allocation 100% penalties. (Ibid.)
- "Notice Period" or "Response Deadline" refers to a date that is forty-five (45) calendar days from the date that the Class Notice is mailed to Class Members and the deadline by which Class Members' Requests for Exclusion, disputes regarding Weeks at Issue credited to them, and/or Objections must be postmarked in order to be timely. An Objection or Request for Exclusion must be mailed to the Settlement Administrator with a postmark dated during the Notice Period for it to be considered. Similarly, a written notice disputing the number of Workweeks at Issue must be returned to the Settlement Administrator with a postmark dated during the Notice Period for the Class Member to raise a valid dispute regarding the number of Workweeks at Issue used to determine his or her Individual Settlement Payment. This deadline will be extended by 10 calendar days for those Class Members who have their notices re-mailed. (¶2.21.)
- o Defendant shall retain the right, in the exercise of its sole discretion, to nullify the Settlement if Class Members representing more than an aggregate total of 5% of the Class Members opt out of the Settlement. (¶12.1.)
- Uncashed Settlement Checks: Settlement Class Members shall have one hundred eighty (180) calendar days from the date of mailing of their Individual Settlement Payment check to cash their Individual Settlement Payment check. The Settlement Administrator shall mail a check cashing reminder postcard to those Settlement Class Members who have not negotiated their Individual Settlement Payment checks within ninety (90) days of mailing. Any failure of a Settlement Class Member to deposit a check shall not affect the enforceability of the release of all Released Class Claims, as the Parties jointly agree that valid consideration for same is the offer of monetary consideration by means of the offer of settlement and mailing of settlement checks. In the event that any Individual Settlement Payment checks are not deposited, cashed, or otherwise negotiated within the 180-day period, shall be void. Any funds not distributed after the expiration of the Individual Settlement Payment checks shall escheat to the State of California Controller's Office to be held in the name of the Settlement Class Member who is the payee of the check. (¶4.5.1.b.)

- The settlement administrator will be CPT Group. (§2.41.)
- The proposed settlement was submitted to the LWDA on August 30, 2022. (Huether Decl. Preliminary Approval, Exhibit 2.)
- Scope of the release: Upon Defendant's deposit of the Gross Settlement Amount with the Settlement Administrator, Plaintiff and all other Settlement Class Members, on behalf of themselves, as well as on behalf of all of their agents, heirs, beneficiaries, devisees, legatees, grantees, transferees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, successors-in-interest, and assigns, fully and forever release, acquit, and discharge the Released Parties from all Released Class Claims. Upon Defendant's deposit of the Gross Settlement Amount with the Settlement Administrator, Plaintiff, the State of California and all other PAGA Releasees, on behalf of themselves, as well as on behalf of all of their agents, heirs, beneficiaries, devisees, legatees, grantees, transferees, executors, administrators, trustees, conservators, guardians, estates, personal representatives, successors-in-interest, and assigns, fully and forever release, acquit, and discharge the Released Parties from all Released PAGA Claims. (§8.1.)
 - o Settlement Class Member will be deemed to have released, waived, and discharged the Released Parties from his or her Released Class Claims as defined in the Settlement. Each Settlement Class Member further covenants and agrees that, since each Settlement Class Member is settling disputed claims, a Settlement Class Member will not accept, recover, or receive any overtime compensation, back pay, liquidated damages, exemplary damages, punitive damages, penalties, interest, attorneys' fees and costs, other damages, or any other form of relief based on any Released Class Claims settled in the Lawsuits, or in connection with any other individual, class, collective, representative, administrative, or arbitral proceeding pursued by any individual, class, or federal, state or local governmental agency against the Released Parties for Released Claims during the Settlement Period as they are based on the Released Claims. The Parties agree that when the Final Approval Order and Judgment is entered, Defendant has the res judicata effect of the Judgment on all Settlement Class Members. Settlement Class Members further acknowledge and agree that they cannot pursue any Released Class Claims settled as part of this Settlement. If involuntarily joined in any lawsuits against Released Parties regarding claims released under the Released Class Claims, Settlement Class Members agree to waive their rights to any recovery that may result from such lawsuits or proceedings, and not to pursue claims on their own behalf. (§8.2.)

o Settlement Class Release: Each Settlement Class Member who been issued a settlement check for their Individual Settlement Payment shall hereby knowingly, voluntarily and completely release the Released Parties, as defined in this Settlement, from/for all the Released Class Claims they have against the Released Parties during the Settlement Period. Settlement Class members are bound by the Settlement regardless of whether they cash their Individual Settlement Payment. (§8.2.1.)

o "Released Class Claims" means all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or unknown, suspected or unsuspected, relating to the allegations that were asserted, or could have been asserted, based on the facts alleged in the Complaints. Settlement Class Members shall release all Released Class Claims that accrued during the Settlement Period as to the Released Parties upon Defendant's funding of the GSA, as set forth herein. The scope of the Released Class Claims by each Settlement Class Member is meant to be as broad as possible, under the law and includes all claims that are asserted or could have been asserted based on the same factual predicate alleged in the Complaints. Such allegations include assertions that Plaintiff or Class Members were not properly or timely compensated for all hours worked, and were subject to wage and hour law violations, regardless of whether such claims arise under California law, common law, local law, or federal law, or any statute, ordinance, regulation, or applicable wage and hour law. The Released Class Claims include, but are not limited to, the causes of actions alleged in the Complaints, which are asserted as follows: (1) Failure to Pay Wages For All Hours Worked At Minimum Wage in Violation of Labor Code Sections 1194 and 1197, (2) Failure to Pay Overtime Wages for Daily Overtime Worked In Violation Of Labor Code Section 510 and 1194, (3) Failure to Pay Reporting Time Pay In Violation of Labor Code Sections 1194, 1197, and 1198, (4) Failure to Authorize or Permit Meal Periods In Violation of Labor Code Sections 512 and 226.7, (5) Failure to Authorize or Permit Rest Periods in Violation of Labor Code Section 226.7, (6) Failure to Timely Pay Earned Wages During Employment in Violation of Labor Code Section 204, (7) Failure to Provide Complete and Accurate Wage Statements in Violation of Labor Code Section 226, (8) Failure to Timely Pay All Earned Wages and Final Paychecks Due at Time of Separation of Employment in Violation of Labor Code Sections 201, 202, and 203, and (9) Unfair Business Practices, in Violation of Business and Professions Code Sections 17200, et seq. The Released Class Claims also include, but are not limited to, all applicable claims under the California Industrial Welfare Commission Wage Orders, California Labor Codes

(including but not limited to California Labor Code Sections 201-204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1198, et seq.), applicable and California Code of Regulations, the California Business and Professions Code §§ 17200 et seq., the federal Fair Labor Standards Act ("FLSA"), and all other applicable wage and hour laws. Based on the same factual predicate alleged in the Complaints, the release of the foregoing Released Class Claims extends to all claims whether the claim is, was or could have been alleged as a separate claim, cause of action, or, lawsuit, whether under California law, common law, local law, or federal law, or any statute, ordinance, regulation, or other applicable wage and hour law (this includes, but is not limited to, any claim based on the same factual predicate for: miscalculated wages; failure to pay the regular rate of pay, double time pay, or premium pay; failure to reimburse business expenditure; improper deductions; a failure to properly pay vacation or sick pay; late payment of wages; improper frequency of pay; improper rounding of time records; failure to maintain records; failure to keep accurate and complete payroll records; and other such claims). The Released Class Claims encompass all types of relief available for the foregoing claims, including, without limitation, any claims for damages, restitution, losses, penalties, fines, liens, attorneys' fees, costs, expenses, debts, interest, willful exemplary damage, injunctive relief, declaratory relief, or liquidated damages. Notwithstanding the foregoing, nothing in this Agreement releases any claims that may not be released as a matter of law. (¶2.36.)

o Release of PAGA Claims: Upon the Court's approval of the PAGA Payment and this release of the Released PAGA Claims, Plaintiff and the PAGA Releasees and all persons purporting to act on the PAGA Releasees' behalf or purporting to assert a claim under or through them, hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties of and from any and all Released PAGA Claims. The PAGA Releasees will be issued a check for their share of the PAGA Payment and will not have the opportunity to opt out of, or object to, the PAGA Payment and release of the PAGA Claims set forth in this Paragraph. The PAGA Releasees are bound by the release of the Released PAGA Claims regardless of whether they cash their PAGA Payment Check. (¶8.2.3.)

o "Released PAGA Claims" PAGA Releasees shall release all Released PAGA Claims that accrued during the PAGA Settlement Period as to the Released Parties upon Defendant's funding of the GSA, as set forth herein. The scope of the Released PAGA Claims by each PAGA Releasee includes all claims that are

asserted or could have been asserted based on the same factual predicate alleged in the LWDA Notice and Operative Complaint. The Released PAGA Claims include, but are not limited to: (1) Civil Penalties Pursuant to the Private Attorney's General Act of 2004 ("PAGA"), Labor Code Section 2698, et seq. which includes penalties for (a) Failure to pay wages for all hours worked at the legal minimum wage, (b) Failure to pay wages for overtime hours worked at the overtime rate of pay, (c) Failure to provide reporting time pay, (d) Failure to pay wages to hourly non-exempt employees for workdays that Defendants failed to provide legally required and compliant meal periods, (e) Failure to pay wages to hourly nonexempt employees for workdays that Defendants failed to provide legally required and compliant rest periods, (f) Failure to timely pay earned wages during employment, (g) Failure to provide complete and accurate wage statements, and (h) Failure to pay employees all wages due at time of termination/resignation, and all other claims asserted in the Complaints and the LWDA Letter. The Released PAGA Claims include all applicable claims under the California Industrial Welfare Commission Wage Orders, California Labor Codes (specific to claims under the California Labor Code Sections 2698-2699.5, et seq.), and California Code of Regulations that could be brought under or are subject to the PAGA. (§2.37.)

o "Released Parties" means CAPI, and any of CAPI's predecessors and successors in interest, current or former parent companies, subsidiaries, affiliates, assigns, trustees, guarantors, fiduciaries, and present and former owners. The Released Parties also include, but are not limited to, companies acquiring any or all of CAPI's assets or capital stock, Defendant's past or present customers, clients, contractors, vendors, and divisions, and any other individual or entity which could be jointly liable with Defendant for the Released Class Claims and Released PAGA Claims, including but not limited to Doncasters Group Ltd; Doncasters Superalloys of Long Beach; Doncasters plc; Doncasters, Inc.; Doncasters US Fabrications, Inc.; and any other related Doncasters entity. The Released Parties also include, but are not limited to, the current or former officers, directors, shareholders, managers, agents, attorneys, representatives, accountants, administrators, employees, insurers, beneficiaries, reinsurers, or carriers of any of the foregoing persons or entities. (§2.38.)

o Named Plaintiff will also provide a general release and CC § 1542 waiver. (§8.2.2; §8.3.)

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II.
DISCUSSION

A. Does a Presumption of Fairness Exist?

1. Was the settlement reached through arm's-length bargaining? Yes. On March 22, 2022, the Parties attended a full day mediation session with Jeff Ross, where the Parties reached an agreement. (Settlement Agreement, ¶1.08.)

2. Were investigation and discovery sufficient to allow counsel and the court to act intelligently? Yes. Counsel represent that prior to the mediation, Defendants provided Plaintiff with informal discovery exchange which included the following: (1) a 20% random and representative sampling of electronic time and pay data for the putative class members and alleged aggrieved employees; (2) the total number of current and former putative class members and aggrieved employees who worked during the relevant time periods; (3) the number of former putative class members and aggrieved employees that ended their employment with Defendant during the relevant time periods; (4) the total number of workweeks at issue during the relevant time periods; (5) the total number of pay periods at issue during the relevant time periods; (6) the number of shifts over 5 hours, 6 hours, and 10 hours worked by putative class members and aggrieved employees; (7) the average hourly rate for the putative class members; (8) copies of CAPI's employee handbooks used during the class period; (9) Defendant's timekeeping policies, including policies regarding checking-in and checking-out, attendance and tardiness, employee schedules, payment of wages, and meal period and rest break policies; (10) IWC Wage Orders posted at all CAPI sites; (11) photos of all California and federal postings; (12) payroll calendars; and (13) other relevant information, including Plaintiff's personnel file, wage statements, and time records. (Huether Decl. Preliminary Approval, ¶32.)

3. Is counsel experienced in similar litigation? Yes. Class Counsel is experienced in class action litigation, including wage and hour class actions. (Id. at ¶¶ 30-31; Declaration of Sahag Majarian II ISO Preliminary Approval, passim).

4. What percentage of the class has objected? No objectors. (Thompson Decl., ¶7.)

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 plaintiffs 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.

Claims	Maximum Exposure	Realistic Exposure
Unpaid Wages	\$730,578.49	\$365,289.24
Reporting Time	\$33,389.84	\$33,389.84
Meal Breaks	\$2,213,874.20	\$531,329.81
Rest Period Violations	\$2,213,874.20	\$332,081.13
Timely Wages	\$41,800.00	\$41,800.00
Wage Statement Violations	\$836,000.00	\$146,300.00
Waiting Time	\$651,821.00	\$260,728.40
PAGA	\$535,700.00	\$535,700.00
TOTAL	\$7,257,037.73	\$2,246,618.42

(Huether Decl. Preliminary Approval, ¶¶12-29.)

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's counsel obtained a \$1,000,000 non-reversionary settlement. The \$1,000,000 settlement amount constitutes approximately 13.78% to 44.51% of Defendant's maximum and realistic exposure,

respectively. Given the uncertain outcomes, the settlement appears to be within the "ballpark of reasonableness."

The average estimated payment is \$2,757.26, the highest is \$7,190.26, and lowest is \$26.15. (Thompson Decl., ¶8.) The average estimated PAGA payment is \$59.81, the highest PAGA Payment is \$198.34, and lowest PAGA Payment is \$2.33. (Id. at ¶9).

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.

Number of Class Members: 209 (Thompson Decl., ¶4.)
Number of notice packets mailed: 209 (Ibid.)
Number of undeliverable notices: 0 (Id. at ¶5.)
Number of opt-outs: 1 (Id. at ¶6.)²
Number of objections: 0 (Id. at ¶7.)
Number of Participating Class Members: 208 (Id. at ¶8.)
Average individual payment: \$2,757.26 (Id. at ¶8.)
Highest individual payment: \$7,190.26 (Ibid.)
Lowest individual payment: \$26.15 (Ibid.)
Number of APGA Members: 126 (Id. at ¶9.)
Average PAGA payment: \$59.81 (Ibid.)
Highest PAGA payment: \$198.34 (Ibid.)
Lowest PAGA Payment: \$2.33 (Ibid.)

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

C. Attorney Fees and Costs

Class Counsel, Lavi & Ebrahimian, LLP and the Law Offices of Sahag Majarian II, request \$333,333 (33%) in fees and

² After the initial hearing, Counsel filed a declaration identifying the opt out as William Pete Kimberly.

litigation costs and expenses in the amount of \$14,568.37 to Class Counsel. (Motion ISO Final: 13:14-16.) The Settlement provides for attorney's fees up to \$333,333 and costs of \$20,000 (Settlement Agreement, ¶44); the class was provided notice of the requested awards and none objected. (Thompson Decl., ¶7 and Exhibit A thereto.)

There is a fee split: 55% to Lavi & Ebrahimian, LLP and 45% to the Law Offices of Sahag Majarian II. (2nd Supp. Brief Preliminary Approval, 2: 17-25.)

"Courts recognize two methods for calculating attorney fees in civil class actions: the lodestar/multiplier method and the percentage of recovery method." (Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 254, disapproved on another ground in Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260.) Here, class counsel requests attorney fees using the percentage method, as cross checked by lodestar. (Motion ISO Final, pgs. 13-17.) In common fund cases, the Court may employ a percentage of the benefit method, as cross-checked against the lodestar. (Laffitte v. Robert Half Int'l, Inc. (2016) 1 Cal.5th 480, 503.) The fee request represents 33% of the gross settlement amount, which is the average generally awarded in class actions. (See In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 558, fn. 13 ["Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."].)

Class Counsel has provided information, summarized below, from which the lodestar may be calculated.

Attorney	Hours	Hourly Rate	Total
Antonia Mckee	29	\$675	\$19,575.00
Joseph Lavi	35	\$925	\$32,375.00
Vincent C. Granberry	44	\$725	\$31,900.00
Eve Howe	5	\$675	\$3,375.00
Melissa A. Huether	39	\$675	\$26,325.00
Sahag Majarian II	41.4	\$850	\$39,190.00
Total:	193.4		\$152,740.00

(McKee Decl. ISO Final, ¶¶24, 28-31; Majarian Decl. ISO Final, ¶9.)

Counsel represent they have spent over 193.4 hours in connection with this litigation, resulting in a lodestar of \$152,740, which would require a multiplier of 2.18 to yield the requested fee amount. (Ibid.)

As for costs, class counsel incurred costs of \$14,568.37. (McKee Decl. ISO Final, ¶33, Ex. 3.) Class Counsel is requesting \$14,568.37 in costs, which is less than the settlement cap of \$20,000. The costs in this case include, but are not limited to, filing and service fees (\$435), expert costs (\$2,450), and mediation (\$9,000). (Ibid.) The costs seem reasonable and necessary to litigation.

Based on the above, the court awards \$333,333 for fees and \$14,568.37 for litigation costs.

D. Claims Administration Costs

The claims administrator, CPT Group, Inc., requests \$10,500 for the costs of administering the settlement. (Thompson Decl., ¶11.) This is less than the \$11,500 maximum amount estimated in the Settlement Agreement; (Settlement Agreement, ¶4.9); and disclosed in the notice to class members.

The court awards costs in the requested amount of \$10,500.

E. Incentive Award to Class Representative

The Settlement agreement provides for up to \$9,900 as an incentive award for Plaintiff Carmona. (Settlement Agreement, ¶4.8.)

In connection with the final fairness hearing, the named Plaintiffs must submit declarations attesting to why they should be entitled to an enhancement award in the proposed amount. The named Plaintiffs must explain why they "should be compensated for the expense or risk he 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.)

Plaintiff Carmona's contributions to this litigation include, but are not limited to spending 40 hours on the following: obtaining counsel, meeting with counsel, gathering documents, reviewing documents, answering questions, remaining available for mediation, and reviewing the settlement agreement. (Carmona Decl., ¶5.)

The Court notes that these efforts are commendable, but not exceptional.

Based on the above, the court grants a reduced enhancement award in the reduced amount of \$5,000 to Plaintiff Danny Carmona.

III. CONCLUSION

Based upon the foregoing, the Court orders that:

1) The Parties' Motion for Final 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 \$1,000,000.

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

\$333,333 (1/3) for attorney fees to Class Counsel, Lavi & Ebrahimian, LLP and the Law Offices of Sahag Majarian II, (55% to Lavi & Ebrahimian, LLP and 45% to the Law Offices of Sahag Majarian II).

\$14,568.37 for attorney costs to Class Counsel.

\$5,000 for an incentive award to Plaintiff Danny Carmona.

\$10,500 for claims administration costs to CPT Group, Inc.

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

C. The employer's share of payroll taxes will be paid separately by Defendant in addition to the GSA. (¶14.)

D. Plaintiffs release of Defendants from claims described herein.

3) By **March 1, 2024**, Class Counsel must give notice to the class members pursuant to California Rules of Court, rule 3.771(b) and to the LWDA, if applicable, pursuant to Labor Code §2699 (1) (3).

4) By **February 3, 2025**, Class Counsel must file a Final Report re: Distribution of the settlement funds.

5) Court sets a **Non-Appearance Case Review for February 10, 2025, 8:30 AM, Department 9.**

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

IT IS SO ORDERED.

DATED: February 1, 2024



A handwritten signature in black ink that reads 'Yvette M. Palazuelos'. The signature is written in a cursive style and is positioned above the printed name.

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