

11/21/2023

David W. Slayton, Executive Officer / Clerk of Court

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

Deputy

Marisela Meza v. Argus Management Company, LLC, et al., Case
No.: 21STCV31612

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 a revised Notice as follows:

The draft Notice currently attached to the Settlement Agreement is incomplete, with missing key terms and blank spaces left over from the Court's model form. All key terms and amounts should be completed to the fullest extent possible for the Court's review and must be consistent with the agreement. For example, the following should be completed: (a) the case name and number at the heading; (b) the settlement deduction amounts at section 3.2; (c) the correct Court department number at section 8; (d) the website URLs at sections 7 and 8; (e) class counsel and the administrator's contact information at section 9; and more. The footnote on the last page should also be deleted. Carefully review and re-file the Notice form for Court approval.

The Parties' supplemental paperwork must be filed by **December 5, 2023.**

Non-Appearance Case Review is set for December 12, 2023, 8:30 a.m., Department 9.

The essential terms are:

A. The Gross Settlement Amount ("GSA") is \$1,750,000. [Escalator Clause: Defendant estimates that there are 1,956 Class Members and 203,649 Total Workweeks during the Class period. (¶8.1) The GSA was based on Defendant's records produced at the time of mediation. If the number of number of Workweeks during the Class Period exceeds 203,649 by more than ten percent (10%), the GSA shall be increased on a pro rata basis per Workweek exceeding the 10% increase (i.e., if the number increases by 11%, the Gross Settlement Amount shall be increased by 1%). (¶8.2)]

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

Up to \$583,333.33 (33 1/3%) for attorney fees (¶3.2.2);
Up to \$25,000 for litigation costs (Ibid.);
Up to \$10,000 for a Service Payment to the Named Plaintiff (¶3.2.1);
Up to \$20,000 for settlement administration costs (¶3.2.3); and
\$50,000 PAGA Penalty (75% or \$37,500 to the LWDA, 25% or \$12,500 to Aggrieved Employees). (¶3.2.5)

C. Employer share of the payroll taxes on the taxable portion of the settlement payments shall be paid separately from the GSA by Defendant.

D. Plaintiffs release of Defendants from claims described herein.

The Parties' Motion for Final Approval of Class Action Settlement must be filed by **May 28, 2024**. Plaintiff must call the Court prior to filing and serving to get a hearing date and briefing schedule. However, the clerk will not give Plaintiff a hearing date unless the motion is ready to be filed immediately.

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 4, 2024, 8:30 a.m., Department 9.

I.
BACKGROUND

Plaintiff Marisela Meza sues her former employer, Defendants Argus Management Company, LLC and ProHealth Partners, a Medical Group, Inc. (collectively, "Defendant" or "Defendants"), for alleged wage and hour violations. Defendant Argus Management Company LLC is based in Long Beach, California and provides physician practice management solutions to solo practitioners, groups, and hospitals. Defendant ProHealth

Partners, a Medical Group, Inc. is a medical group consisting of physicians practicing in Los Angeles County and Orange County. Plaintiff seeks to represent a class of Defendants' current and former non-exempt employees.

On August 26, 2021, Plaintiff filed a putative wage-and-hour class action complaint against Defendants for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194, and 1198); (3) failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (Labor Code §§ 226.7 and 512); (5) failure to provide accurate itemized wage statements (Labor Code § 226); (6) failure to timely pay final wages at termination (Labor Code §§ 201-203); (7) failure to indemnify employees for expenditures (Labor Code § 2802); and (8) unfair business practices (Business and Professions Code 17200 et seq.).

On October 4, 2023, Plaintiff filed a First Amended Complaint against Defendants adding claims for civil penalties under Private Attorneys General Act ("PAGA") (Labor Code § 2698 et seq.)

On March 23, 2023, the Parties attended mediation before Lisa Klerman, Esq., which resulted in settlement.

On October 4, 2023, Plaintiff filed a First Amended Complaint against Defendants adding claims for civil penalties under Private Attorneys General Act ("PAGA") (Labor Code § 2698 et seq.)

The terms of settlement were finalized in the long-form Class Action and PAGA Settlement Agreement ("Settlement Agreement"), a copy of which is attached to the Declaration of Justin F. Marquez filed September 25, 2023 ("Marquez 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": all persons employed by Defendant in California and classified as a non-exempt or hourly-paid employee who worked for Defendant during the Class Period. (§1.5)

"Class Period": August 26, 2017 to March 23, 2023. (§1.12)

"Aggrieved Employee": a person employed by Defendant in California and classified as a non-exempt or hourly-paid employee who worked for Defendant during the PAGA Period. (§1.4)

"PAGA Period": August 26, 2021 to March 23, 2023. (§1.31)

"Defendant": Argus Management Company, LLC, a California limited liability company and ProHealth Partners, a Medical Group, Inc., a California corporation. (§1.16)

"Participating Class Member": a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement. (§1.35)

The Parties agree that class certification and representative treatment is for purposes of this Settlement only. (§12.1)

B. Terms of Settlement Agreement

The essential terms are:

- The Gross Settlement Amount ("GSA") is \$1,750,000, non-reversionary. (§3.1)
 - o Escalator Clause: Based on its records, Defendant estimates that there are approximately 1,956 Class Members and 203,649 Total Workweeks during the Class period. (§8.1) The Gross Settlement Amount was agreed upon based on Defendant's records produced at the time of mediation. If the number of number of Workweeks during the Class Period exceeds 203,649 by more than ten percent (10%), the Gross Settlement Amount shall be increased on a pro rata basis per Workweek exceeding the 10% increase (i.e., if the number increases by 11%, the Gross Settlement Amount shall be increased by 1%). (§8.2)
- The Net Settlement Amount ("Net") (\$1,061,666.67) is the GSA minus the following:
 - o Up to \$583,333.33 (33 1/3%) for attorney fees (§3.2.2);
 - o Up to \$25,000 for litigation costs (Ibid.);
 - o Up to \$10,000 for a Service Payment to the Named Plaintiff (§3.2.1);

- o Up to \$20,000 for settlement administration costs (§3.2.3); and
- o Payment of \$50,000 PAGA Penalty (75% or \$37,500 to the LWDA, 25% or \$12,500 to Aggrieved Employees). (§3.2.5)
- Defendants will separately pay any and all employer-side payroll taxes owed on the Wage Portions of the Individual Class Payments. (§3.1)
- There is no claim form requirement. (§3.1)
- Individual Settlement Payment Calculation: Each Participating Class Member will receive an Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. (§3.2.4) Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis. (§3.2.4.2)
- o PAGA Payments: The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$12,500) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. (§3.2.5.1)
- o Tax Allocation: Participating Class Member's Individual Class Payments will be allocated as follows: 1/4 as wages, 3/4 as interest and penalties. (§3.2.4.1) The Administrator will report the Individual PAGA Payments on IRS 1099 Forms. (§3.2.5.2)
- Response Deadline: "Response Deadline" means 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. (§1.43) The same deadlines apply to the submission of challenges to workweeks. (§7.6)
- 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 the Settlement. (§9)

- **Funding of Settlement:** Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date. (¶4.3)
- **Disbursement:** Within 14 days after Defendant fully funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments. (¶4.4)
- **Uncashed Settlement Checks:** The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. (¶4.4.1) For any Participating Class Member and/or Aggrieved Employee 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 Apex Class Action. (¶1.2)
- Notice of Final Judgment will be posted on the Settlement Administrator's website. (¶7.8.1)
- The proposed Settlement Agreement was submitted to the LWDA on September 25, 2023. (Proof of Service attached to Decl. of Marquez.)
- Participating class members and the named Plaintiff will release certain claims against Defendant. (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 March 23, 2023, the Parties attended mediation before Lisa Klerman, Esq., which resulted in settlement. (Marquez Decl. ¶7).

2. Were investigation and discovery sufficient to allow counsel and the court to act intelligently? Yes. Class Counsel represents that after the filing of the Complaint, the Parties exchanged documents and information before mediating this action. Defendants produced a sample of time and pay records for class members. Defendants also provided documents of its wage and hour policies and practices during the class period, and information regarding the total number of current and former employees in its informal discovery responses. (Id. at ¶5.)

Class Counsel reviewed these records and utilized an expert to prepare a damages analysis prior to mediation. The damages model was based on a sample size of 130,802 shifts out of an estimated 902,881 total shifts worked by class members, which represents a 0.25% margin of error based on a 95% confidence interval. (Id. at ¶6.)

3. Is counsel experienced in similar litigation? Yes. Class Counsel is experienced in class action litigation, including wage and hour class actions. (Id. at ¶47.)

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	\$2,926,204.79	\$585,240.96
Meal Period Violations	\$2,269,208.52	\$314,248.70
Rest Period Violations	\$4,205,168.26	\$420,516.83

Unreimbursed Business Expenses	\$586,800.00	\$58,680.00
Waiting Time Penalties	\$5,848,329.60	\$1,634,647.96
Wage Statement Violations	\$5,212,850.00	
PAGA Penalties	\$5,285,300.00	
Total	\$26,333,861.17	\$3,013,334.45

(Marquez Decl. ¶¶17-25.)

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. Class Counsel estimated Defendants’ maximum damages at \$26,333,861.17 and realistic damages at \$3,013,334.45. Class Counsel obtained a \$1,750,000 non-reversionary settlement. This is approximately 6.6% of Plaintiff’s estimated maximum recovery and 58.1% of the estimated realistic recovery which, given the uncertain outcomes, is within the “ballpark” of reasonableness.

The \$1,750,000 settlement amount, after reduced by the requested deductions, leaves approximately \$1,061,666.67 to be divided among approximately 1,956 class members. Assuming full participation, the resulting payments will average approximately \$542.77 per class member.

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 and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, and Participating Class Members will release claims against all Released Parties as follows: (¶5)

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 (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including any and all claims involving any recovery of unpaid minimum wages and unpaid overtime (Cal. Lab. Code §§ 204, 1194, 1194.2, 1197, 1198), failure to provide meal and rest periods (Cal. Lab. Code §§ 226.7, 512), failure to provide accurate wage statements (Cal. Lab. Code § 226), failure to pay all wages due at separation (Cal. Lab. Code §§ 201-203), failure to reimburse business expenses (Cal. Lab. Code § 2802), and violation of Unfair Business Practices (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. (¶5.2)

Release by Participating and Non-Participating Class Members who are Aggrieved Employees: All Participating and Non-Participating Class Members who are Aggrieved Employees, the State of California, and the LWDA 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 that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, including any and all claims involving any alleged failure to pay minimum wages or overtime, failure to provide meal and rest periods, failure to provide accurate wage statements, failure to pay all wages due at separation, and failure to reimburse business expenses, including Labor Code sections 201, 202, 203, 210, 216, 223, 225.5, 226, 226.3, 226.7, 245-248.5, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 during the PAGA Period. Aggrieved Employees only release these claims for the duration of the PAGA Period. (§5.3)

"PAGA Notice" means Plaintiff's August 26, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a). (§1.33)

Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Section 6.4 of this Agreement and are eligible for an Individual PAGA Payment. (§7.5.4)

"Released Parties" means: Argus Management Company, LLC, and ProHealth Partners, a Medical Group, and each of its former and present directors, managers, officers, shareholders, members, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates. (§1.41)

Named Plaintiff will also provide a general release and CC § 1542 waiver. (§5.1)

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. Windsor (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 1,956 class members. (MPA at 15:14-15.) 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 15:16-20.)

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.)

As to commonality, Plaintiff contends that the employment practices at issue are: whether Defendant had legally compliant policies and practices to provide employees with meal periods; whether Defendant had legally compliant policies and practices authorizing and permitting its employees to take rest periods; whether Defendant had legally compliant policies and practices for all hours worked, including overtime wages; whether Defendant reimbursed employees for business expenses; whether final payment of wages was untimely and excluded unpaid wages, including meal period premium wages, and rest period premium wages; and whether the wage statements were consequently noncompliant. Plaintiff contends that the factual and legal issues are the same for all of the identified class members, including Plaintiff. Further, all class members suffered from, and seek redress for, the same alleged injuries. (MPA at 16:3-17.)

As to typicality, Plaintiff asserts that she is a former employee of Defendant; as such, she alleges that she was subject to the same policies and practices as other similarly situated employees. (Id. at 16:19-28.)

As to adequacy, Plaintiff represents that she is aware of the duties and risks of serving as class representative and has participated in the litigation. (Declaration of Marisela Meza.)

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; the proposed deductions from the gross settlement amount (attorney fees and costs, enhancement awards, and 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.

Notice will be given in English and Spanish. (¶7.4.2)

2. Method of class notice. Not later than 21 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. (¶4.2) Using best efforts to perform as soon as possible, and in no event later than 14 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 with Spanish translation. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database. (¶7.4.2)

Not later than 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. (§7.4.3)

The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice. (§7.4.4)

3. Cost of class notice. As indicated above, settlement administration costs are estimated not to exceed \$20,000. 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 \$583,333.33 (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.

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

G. Incentive Award to Class Representative

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

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 a revised Notice as follows:

The draft Notice currently attached to the Settlement Agreement is incomplete, with missing key terms and blank

spaces left over from the Court's model form. All key terms and amounts should be completed to the fullest extent possible for the Court's review and must be consistent with the agreement. For example, the following should be completed: (a) the case name and number at the heading; (b) the settlement deduction amounts at section 3.2; (c) the correct Court department number at section 8; (d) the website URLs at sections 7 and 8; (e) class counsel and the administrator's contact information at section 9; and more. The footnote on the last page should also be deleted. Carefully review and re-file the Notice form for Court approval.

2) The Parties' supplemental paperwork must be filed by December 5, 2023.

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4) The essential terms are:

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C. Employer share of the payroll taxes on the taxable portion of the settlement payments shall be paid separately from the GSA by Defendant.

D. Plaintiffs release of Defendants from claims described herein.

5) The Parties' Motion for Final Approval of Class Action Settlement must be filed by May 28, 2024. Plaintiff must call the Court prior to filing and serving to get a hearing date and briefing schedule. However, the clerk will not give Plaintiff a hearing date unless the motion is ready to be filed immediately.

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7) Non-Appearance Case Review is set for June 4, 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: November 21, 2023



A handwritten signature in black ink that reads "Yvette M. Palazuelos".

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