

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO**

**34-2022-00317653-CU-OE-GDS: Kali Bates vs. MVP Event Productions, LLC  
07/26/2024 Hearing on Motion for Preliminary Approval of Settlement (plaintiff) in  
Department 23**

Tentative Ruling

**NO APPEARANCE REQUIRED**

Plaintiffs Kali Bates and Michael Johnson’s (“Plaintiffs”) motion for preliminary approval of class action and Private Attorneys General Action (“PAGA”) settlement is UNOPPOSED and GRANTED as follows.

**Overview**

On April 1, 2022, Plaintiff Bates filed this wage and hour class action against Defendants MVP Productions, LLC (“MVP”) and Legends Hospitality, LLC (“Legends”). On May 18, 2022, Plaintiff Johnson filed a class action against the same defendants alleging the same or similar claims. On October 25, 2022, Plaintiff Bates filed the operative First Amended Complaint that added Plaintiff Johnson to the action and added a representative claim pursuant to PAGA. The First Amended Complaint alleges the following causes of action: (1) unfair competition; (2) failure to provide accurate wage statements; (3) failure to pay minimum wage for all hours worked; (4) failure to provide meal and rest periods; (5) waiting time penalties; (6) failure to pay overtime wages; (7) failure to reimburse business expenses; (8) failure to timely pay wages during employment; and (9) civil penalties pursuant to PAGA.

Plaintiffs and Legends engaged in informal discovery. (Berzin Decl. ¶ 8.) Legends produced a representative sampling of employee timecard data, workweeks during the claim period, a temporary staffing services agreement Legends had with MVP Productions. (*Ibid.*) The informal discovery covered all aspects of the asserted claims. (*Ibid.*) On July 12, 2023, the Plaintiffs and Legends participated in a mediation with Brandon McKelvey, Esq. and were able to reach a settlement. (*Id.* at ¶ 9.) The settlement does not include MVP, which is currently an unrepresented entity and has not participated in this litigation for approximately 1.5 years. (Supplemental Rodriguez Decl. ¶ 2.)

Plaintiffs and Legends have entered into a written settlement agreement. (Ex. A (“Agreement”).) Plaintiffs seek preliminary approval of this class and representative action settlement. This ruling incorporates by reference the definitions in the Agreement and all capitalized terms defined therein shall have the same meaning in this ruling as set forth in the Agreement.

Due to MVP’s non-participation in this case and its acting as a staffing agency for Legends, Legends only has contact information for approximately 18% and email addresses for approximately 31% of the settlement class. (Hamer Decl. ¶ 2.) Further, Legends does not have mailing addresses or social security numbers for any of the settlement class members. (*Ibid.*) Accordingly, this is a claims-made settlement crafted in a way that first provides the ability to attempt obtaining Class Member information from MVP in order to supplement the information

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Legends has for Class Members.

Class Members for whom Legends has an email address will be emailed notice of the settlement along with a claim form. (Exs. F-G.) The Claim's administrator will also perform a sip-trace to determine whose phone numbers and/or email addresses are provided. Plaintiffs also seek in their proposed order that the Court require MVP to provide last known addresses and social security numbers for Class Members and Aggrieved Employees to the Claims Administrator, or in the alternative if addresses are not provided, for notice to be posted on the Claims Administrator's website and that MVP post a notice directing Class Members to the Claims Administrator's website on its social media sites. If addresses are provided by MVP, the claims administrator will search for updated addresses and then mail the notice of settlement and claim form to each Class Member and Aggrieved Employee. If addresses are not provided, the Claims Administrator will post the Notice of Settlement and Claim form on its website and provide copies of the Notice to MVP. Additionally, an ad will be published in a newspaper local to each venue in which Class Members were staffed to work for Defendant.

Despite the Claims-made nature of the settlement, the settlement is also non-reversionary. (Agreement ¶ 5.1.) Given the circumstances presented in Plaintiffs' moving and supplemental papers, the Court agrees that the claims-made process and the order directing MVP to provide contact information is appropriate. However, the moving memorandum and proposed order refer to requiring an entity that is not a party to this case – Ridgeview Vista's Inc. – being directed to post the Class Notice on its social media pages. In supplemental briefing, Plaintiffs concede the Court does not have jurisdiction over Ridgeview Vista, Inc., but clarify that their intent is to require MVP to post the Class Notice on Ridgeview Vista, Inc.'s social media on the contention that Ridgeview Vista, Inc. is MVP's successor. **Plaintiffs are directed to submit a revised proposed order that clearly states only MVP is directed to post ads on its social media sites or Ridgeview Vista's to the extent MVP has access to Ridgeview Vista, Inc.'s social media sites.** For example, the implementation schedule will need to be revised because it gives a last date for Ridgeview Vista, Inc., itself, to post an ad on its social media. (Proposed Order 6:12-14.)

Plaintiffs are also seeking leave to file a second amended complaint that includes allegations from Plaintiff Johnson's original lawsuit, includes additional Labor Code sections from Plaintiff Johnson's amended PAGA letter, and matches the scope of the resolution reached by Plaintiffs and Defendant at mediation. (Berzin Decl. ¶ 3 & Ex. I.) **Plaintiffs' request for leave to amend is GRANTED.**

**Settlement Class Certification**

Plaintiffs seek to certify the following settlement class: all individuals who were staffed to Legends by MVP and performed work for Legends, whether as an employee or independent contractor, at any time from April 1, 2018 and up to December 22, 2023. (Agreement ¶¶ 1.9-

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1.10.) There are approximately 1,687 Class Members. (Berzin Decl. ¶ 11.) The Parties stipulate to settlement class certification. (Agreement ¶ 5.12.) The Court finds the requisites for establishing class certification have been met and preliminarily certifies the proposed settlement class.

**Aggrieved Employees**

Aggrieved Employees are defined as: all individuals who were staffed to Legends by MVP and performed work for Legends, whether as an employee or independent contract, at any time from March 23, 2021 up to December 22, 2023. (Agreement ¶¶ 1.2 & 1.27.) Aggrieved Employees will receive their share of the PAGA penalty regardless of whether they opt out of the Class portion of the settlement. (*Id.* at ¶ 7.5.1 & Ex. 1 (“Class Notice”).) Counsel submitted a copy of the motion and Agreement to the Labor and Workforce Development Agency (“LWDA”) and attached proof of submission. (Berzin Decl. ¶ 23; Ex. H.)

**Class Representatives**

The Court preliminarily appoints Plaintiffs and Class Representatives for settlement purposes only. However, Plaintiffs declarations submitted with this motion are too cursory. Plaintiffs must each file a declaration with the final approval motion that **details** the nature of her and his participation in the action, including specifics of actions taken, time committed, and risks faced. (See *Clark v. American Residential Services, LLC* (2009) 175 Cal.App.4th 785, 804-807.)

**Class Counsel**

The Court preliminarily appoints Galen T. Shimoda, Justin P. Rodriguez, and Renald Konini of Shimoda & Rodriguez Law, PC and Tim Del Castillo and Lisa Bradner of Castle Law: California Employment Counsel, PC as Class Counsel for settlement purposes only.

**Claims Administrator**

The Court appoints Apex Class Action Administration as the Claims Administrator.

**Fair, Adequate and Reasonable Settlement**

The Court must find a settlement is “fair, adequate, and reasonable” before approving a class action settlement. (*Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 244-245.) The trial court has broad discretion to determine whether a proposed settlement in a class action is fair, adequate, and reasonable. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) “[A] presumption of fairness exists where: (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act

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intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” (*Id.* at 1802.) In making its fairness determination, the Court considers the strength of the Plaintiffs’ case, the risk, expenses, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the state of the proceedings, and the experience and views of counsel. (*Id.* at 1801.) In approving a class action settlement, the Court must “satisfy itself that the class settlement is within the ‘ballpark’ of reasonableness.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.)

This is a claims-made, non-reversionary settlement. Legends will pay the Gross Settlement Amount (“GSA”) of \$175,000 and will separately pay any employer tax obligations. (Agreement ¶ 5.1.) The following will be paid out of the GSA: (1) attorneys’ fees equaling up to 35% of the GSA and litigation costs not to exceed \$20,000 to Class Counsel; (2) administration costs not to exceed \$25,000; (3) an enhancement award to each Class Representative in an amount up to \$10,000; (4) individual Class payments; and (5) a PAGA Penalty of \$10,000 (75% of which will be paid to the LWDA and 25% of which will be paid to Aggrieved Employees). (*Id.* at ¶¶ 5.2-5.5.)

For tax purposes, individual settlement payments will be allocated as follows: 1/3 will be treated as wages and 2/3 will be treated as interest and penalties. (Agreement ¶¶ 5.9.1-5.9.2.) PAGA Payments will be treated entirely as penalties. (*Id.* at ¶ 5.9.3.) Class Members have 60 days to submit a claim form, request exclusion, submit an objection, or submit a workweek dispute. (Agreement ¶ 1.24.) Any funds from checks that are uncashed after 180 days will be donated equally to Capital Pro Bono, Inc. and the Center for Workers’ Rights under the *cy pres* doctrine. (*Id.* at ¶¶ 5.6 & 7.9.)

**Disposition**

The Court preliminarily finds that the class and representative settlement is entitled to a presumption of fairness and that all relevant factors support preliminary approval. (*Dunk*, supra, 48 Cal.App.4th at 1802.) The moving and supplemental papers demonstrate the settlement is fair, adequate and reasonable. Further, the settlement was reached after arms-length bargaining between the parties and was reached after sufficient discovery and negotiations, which allowed the parties, and therefore, this Court, to act intelligently with respect to the settlement. Class Counsel conducted a thorough investigation into the facts and law and issue in this case, including the exchange of discovery and the review of extensive information. Therefore, the motion is granted. The Court also approves the Proposed Class Notice and Claim Form. They shall be disseminated as provided in the Agreement. **As discussed above, Plaintiffs are directed to submit a revised proposed order for the Court’s signature.**

Plaintiffs are also granted leave to file the proposed second amended complaint included with

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this motion as Exhibit I. **The second amended complaint must be filed by August 9, 2024.**

**The Final Approval Hearing will take place on January 10, 2025 at 9:00 a.m. in this Department.** Plaintiffs are directed to include the date in the revised proposed order.

*To request oral argument on this matter, you must call Department 23 at 916-874-5754 by 4:00 p.m., the court day before this hearing and notification of oral argument must be made to the opposing party/counsel. If no call is made, the tentative ruling becomes the order of the court. (Local Rule 1.06.)*

**Please check your tentative ruling prior to the next Court date at [www.saccourt.ca.gov](http://www.saccourt.ca.gov) prior to the above referenced hearing date.**

***If oral argument is requested, the parties may and are encouraged to appear by Zoom with the links below:***

To join by Zoom Link - <https://saccourt-ca-gov.zoomgov.com/my/sscdept23>  
To join by phone dial (833) 568-8864 ID 16108301121

Parties requesting services of a court reporter will need to arrange for private court reporter services at their own expense, pursuant to Government code section 68086 and California Rules of Court, Rule 2.956. Requirements for requesting a court reporter are listed in the Policy for Official Reporter Pro Tempore available on the Sacramento Superior Court website at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-6a.pdf>. Parties may contact Court-Approved Official Reporters Pro Tempore by utilizing the list of Court Approved Official Reporters Pro Tempore available at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-13.Pdf>

A Stipulation and Appointment of Official Reporter Pro Tempore (CV/E-206) is required to be signed by each party, the private court reporter, and the Judge prior to the hearing, if not using a reporter from the Court's Approved Official Reporter Pro Tempore list. Once the form is signed it must be filed with the clerk.

If a litigant has been granted a fee waiver and requests a court reporter, the party must submit a Request for Court Reporter by a Party with a Fee Waiver (CV/E-211) and it must be filed with the clerk at least 10 days prior to the hearing or at the time the proceeding is scheduled if less than 10 days away. Once approved, the clerk will be forward the form to the Court Reporter's Office and an official reporter will be provided.

**Counsel for Plaintiffs is directed to notice all parties of this order.**

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Hearing on Motion for Final Approval of Settlement is scheduled for 01/10/2025 at 9:00 AM in Department 23 at Gordon D. Schaber Superior Court.