

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse, Department 21

JUDICIAL OFFICER: HONORABLE SOMNATH RAJ CHATTERJEE

Courtroom Clerk: Amani Amponsah

CSR: None

RG20076302

July 1, 2025

2:30 PM

Marquez VS Panera, LLC

MINUTES

NATURE OF PROCEEDINGS: Hearing on Motion for Preliminary Approval filed by Victor Marquez (Plaintiff) CRS# 181368088580 on 05/02/2025

The Motion for Preliminary Approval of Settlement filed by Victor Marquez on 05/02/2025 is Granted.

The motion of plaintiffs for preliminary approval of class action is **GRANTED**.

The order of 05/27/2025 identified certain concerns. The filings on 06/24/2025 addressed the concerns.

The complaint alleges claims on behalf of applicants for employment under the Fair Credit Reporting Act.

The case preliminarily settled for \$47,000 in funds. The settlement agreement states there will be attorneys' fees of up to \$ 15,666.67 (33% of the total), costs of up to \$14,8333, a service award of \$3,000 for the class representative, and settlement administration costs of up to \$4,500.

After these expenses, the class would get \$9,000. With 47 class members, the average payout per class member would be \$191.

The proposed class notice form and procedure are adequate.

The proposed class is appropriate for class certification.

The motion makes an adequate analysis as required by Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116.

The scope of the release for the class is appropriate. The scope of the class release must be limited to the claims arising out of the claims in the complaint where the named plaintiffs are typical and can adequately represent the class. (Amaro v. Anaheim Arena Management, LLC (2021) 69 Cal.App.5th 521, 537-538.) The scope of the class release is limited to the claims arising out of the claims in the complaint.

The scope of the release for the named plaintiff is broader, which is permissible.

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The court notes and approves of the plan to distribute the settlement funds with no claims process.

The unclaimed funds will be distributed to Bay Area Legal Aid. This is consistent with CCP 384. Counsel has provided a declaration in support of the motion that provides the information required by CCP 382.4.

The Court will not approve the amount of attorneys' fees and costs until final approval hearing. The Court cannot award attorneys' fees without reviewing information about counsel's hourly rate and the time spent on the case. This is the law even if the parties have agreed that Defendants will not oppose the motion for fees. (*Robbins v. Alibrandi* (2005) 127 Cal. App. 4th 438, 450-451.)

"Because absent class members are not directly involved in the proceedings, oversight to ensure settlements are fair and untainted by conflict is the responsibility of both the class representative and the court." (*Mark v. Spencer* (2008) 166 Cal.App.4th 219, 227.)

"[T]horough judicial review of fee applications is required in all class action settlements and the fairness of the fees must be assessed independently of determining the fairness of the substantive settlement terms. (*Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 555-556.)

The court sets out its standard analysis below. Counsel may address that analysis in the fee application.

The Ninth Circuit's benchmark is 25%. (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 495.) The court notes that the case was settled in federal court and then remanded to state court for approval of settlement.

This court's benchmark for fees is 30% of a total fund. (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 495; *Schulz v. Jeppesen Sanderson, Inc.* (2018) 27 Cal.App.5th 1167, 1175; *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 fn 13; *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 fn 11.)

When cross-checking with the lodestar/multiplier, the court will evaluate the lodestar based on reasonable fees that would have been charged at hourly rates and then apply a multiplier. The multiplier includes contingent fee risk and other factors.

When considering risk, the court considers there is less risk in a case with fee shifting statutes because counsel's potential fees are not limited by and coupled to the monetary recovery. "The law does not mandate ... that attorney fees bear a percentage relationship to the ultimate recovery of damages in a civil rights case." (*Harman v. City and County of San Francisco* (2007) 158 Cal.App.4th 407, 419.) (See also *Heritage Pacific Financial, LLC v. Monroy* (2013) 215 Cal.App.4th 972, 1006-1007.)

The Court will not decide the amount of any service award until final approval hearing. Plaintiff

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must provide evidence regarding the nature of his participation in the action, including a description of his specific actions and the amount of time he committed to the prosecution of the case. (Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785, 804-807.) The court's standard service award is \$7,500.

The final approval hearing will be 12/02/2025.

The Court **ORDERS** that 10% of any fee award to be kept in the administrator's trust fund until the completion of the distribution process and Court approval of a final accounting.

The Court **ORDERS** that the administrator must not distribute any funds to the cy pres beneficiary until the completion of the distribution process and Court approval of a final accounting.

The Court will set a compliance hearing after the completion of the distribution process and the expiration of the time to cash checks for counsel for plaintiff and the Administrator to comply with CCP 384(b) and to submit a summary accounting how the funds have been distributed to the class members and the status of any unresolved issues. If the distribution is completed, the Court will at that time release any hold-back of attorney fees.

The court will sign the proposed order, which is modified by this order. Plaintiff must reserve a hearing for the motion for final approval.

The Court orders counsel to obtain a copy of this order from the eCourt portal.



By: A. Ampomah, Deputy Clerk
Minutes of: 07/01/2025
Entered on: 07/08/2025