

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

**34-2023-00334466-CU-OE-GDS: Richard Rico vs. Premier Logistics & Transportations
07/18/2025 Hearing on Motion for Preliminary Approval of Settlement in Department 23**

Tentative Ruling

NO APPEARANCE REQUIRED

Plaintiffs Richard Rico and Yalmar Pastora’s (“Plaintiffs”) motion for preliminary approval of class action and Private Attorneys General Act (“PAGA”) settlement is UNOPPOSED and GRANTED as follows.

Overview

On February 8, 2023, Plaintiff Rico initiated this wage and hour putative class action against Defendant Premier Logistics & Transportations (“Defendant”). On June 1, 2023, Plaintiff Rico filed a first amended complaint that added a representative claim pursuant to the Private Attorneys General Act of 2004 (“PAGA”). On September 11, 2023, Plaintiff filed the operative second amended complaint that added Plaintiff Pastora to this action. Plaintiffs allege the following causes of action in the second amended complaint: (1) failure to pay minimum wages; (2) failure to pay wages and overtime; (3) meal period liability; (4) rest break liability; (5) failure to pay vacation wages; (6) failure to comply with Labor Code sections 245 and 246; (7) failure to reimburse necessary business expenses; (8) violation of Labor Code section 226(a); (9) failure to keep required payroll records; (10) penalties pursuant to Labor Code section 203; (11) violation of the unfair competition law; and (12) penalties pursuant to PAGA.

Prior to mediation, the Parties engaged in informal discovery, including surveying potential Class Members. (Kim Decl. ¶¶ 7 & 24.) On May 9, 2024, the Parties participated in an all-day mediation with Tagore Subramaniam. (*Id.* at ¶ 9.) The Parties reached a settlement at mediation and subsequently entered into a written settlement agreement. (*Id.* at Ex. 1 (“Agreement”).) This hearing was initially set for June 27, 2025, but was continued because of concerns the Court shared regarding the Aggrieved Employee release. The Parties executed an amendment to the Agreement that revised the Aggrieved Employee release to remove the “ascertained in the course of the Action” language. (Supplemental McKee Decl. Ex. 1 (“Amendment to 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.

Settlement Class Certification

Plaintiffs seek to certify the following settlement class: all current and former non-exempt employees of Defendant during the Class Period,” which is the period from February 8, 2019, to July 9, 2024. (Agreement ¶¶ 1.5 & 1.12.) There are approximately 211 Class Members. (*Id.* at ¶ 4.1.) The Parties have stipulated to class certification for settlement purposes. (*Id.* at ¶ 12.1.) The Court finds, based on the moving papers, that Plaintiffs have established the requisites for class certification. The Court preliminarily certifies the proposed class for settlement purposes only.

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Aggrieved Employees

Aggrieved Employees are defined as: all current and former non-exempt employees who worked for Defendant in the State of California from December 2, 2021 to July 9, 2024. (Agreement ¶¶ 1.4 & 1.31.) There are 177 Aggrieved Employees. (*Id.* at ¶ 4.1.) Aggrieved Employees will receive their share of the PAGA Penalty regardless of whether they opt out of the Class component of the settlement. (*Id.* at ¶ 7.5.4; Supplemental McKee Decl. Ex. 2 (“Amended Class Notice”).) Plaintiffs’ counsel gave notice of the Agreement and the Amendment to the Agreement to the Labor and Workforce Development Agency. (Kim Decl. Ex. 5; Supplemental McKee Decl. Ex. 3.)

Class Representatives

Plaintiffs are preliminarily appointed as Class Representatives for settlement purposes only.

Class Counsel

Emil Davtyan, Roman Shkodnik, Enoch J. Kim, Emma Geesaman, and Antonia McKee of D.Law, Inc., David Yeremian of Yeremian & Associates, Inc., and Karl Gerber of Employment Lawyers Group are preliminarily appointed as Class Counsel for settlement purposes only.

Settlement Administrator

The Court appoints Apex Class Action, LLC to act as the settlement 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 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.)

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This is a non-reversionary, opt out settlement. Defendant will pay the Gross Settlement Amount (“GSA”) of \$700,000. (Agreement ¶ 3.1.) Defendant will separately pay employer-side payroll taxes owed on the wage portion of the Class settlement. (*Ibid.*) The following will be paid out of the GSA: (1) a service payment to each Class Representative of not more than \$5,000 (totaling \$10,000); (2) attorneys’ fees equaling not more than one-third of the GSA (\$233,333.33) and litigation costs of not more than \$30,000 to Class Counsel; (3) settlement administration costs not to exceed \$7,500 absent good cause; (4) individual Class Member payments; and (5) a PAGA Penalty in the amount of \$75,000 (75% of which will be paid to the LWDA and 25% of which will be paid to Aggrieved Employees). (*Id.* at ¶¶ 3.2.1-3.2.5.) The GSA will be funded in three equal installments over two years. (*Id.* at ¶ 4.3.) The settlement administrator will deposit the installments into an FDIC insured interest bearing account, and the interest will become part of the Net Settlement Fund. (*Ibid.*)

For tax purposes, Class Member payments will be treated as follows: 20% will be considered wages and 80% will be considered interest and penalties. (Agreement ¶ 3.2.4.1.) PAGA Payments will be treated entirely as penalties. (*Id.* at ¶ 3.2.5.2.) Class Members have 45 days to respond to the Class Notice. (*Id.* at ¶ 1.43.) The funds from settlement checks that remain uncashed after 180 days will be sent to the California Unclaimed Property Fund to be held in the name of the payee. (*Id.* at ¶¶ 4.4.1 & 4.4.3.) The average individual settlement payment is \$1,631.12. (Kim Decl. ¶ 12.)

Disposition

The Court finds that all relevant factors support preliminary approval. (*Dunk, supra*, 48 Cal.App.4th at 1802.) The moving papers demonstrate 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 issues in this case, including the exchange of discovery and the review of extensive information. The settlement appears to be within the “ballpark of reasonableness.” (Kim Decl. ¶¶ 40-72.) Therefore, the motion is granted. The Court also approves the proposed Class Notice. The Notice shall be disseminated as provided in the Agreement. The Court will sign the proposed order submitted with the moving papers.

The Final Approval Hearing will take place on December 5, 2025, at 9:00 a.m. in this Department.

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.)

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Please check your tentative ruling prior to the next Court date at 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/crrp-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/crrp-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 Plaintiff is directed to notice all parties of this order.

Hearing on Motion for Final Approval of Settlement is scheduled for 12/05/2025 at 9:00 AM in Department 23 at Gordon D. Schaber Superior Court.