

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

Complex Law and Motion Calendar
Judge: HONORABLE DON R. FRANCHI
Department 15
1050 Mission Road, South San Francisco
Courtroom K

Monday, May 19, 2025

IF YOU **INTEND TO APPEAR** ON ANY CASE ON THIS CALENDAR YOU MUST DO ONE OF THE FOLLOWING:

1. **EMAIL Dept15@Sanmateocourt.org** BEFORE 4:00 P.M. CONTEMPORANEOUSLY COPIED TO ALL PARTIES OR THEIR COUNSEL OF RECORD. IF BY EMAIL, IT MUST INCLUDE THE NAME OF THE CASE, THE CASE NUMBER, AND THE NAME OF THE PARTY CONTESTING THE TENTATIVE RULING.
2. **YOU MUST CALL (650) 261-5115** BEFORE 4:00 P.M. with the case name, number and the name of the party contesting.

AND

3. You must give notice before 4:00 P.M. to all parties of your intent to appear pursuant to California Rules of Court 3.1308(a)(1).

Failure to do both items 1 or 2 and 3 will result in no oral presentation.

Appearances by Zoom are highly encouraged.

Zoom Video/Computer Audio Information:

<https://sanmateocourt.zoomgov.com/>

Meeting ID: 160 135 4419

Password: 845111

Zoom Phone-Only Information Please note: You must join by dialing in from a telephone; credentials will not work from a tablet or PC

Dial in: +1 (669)-254-5252

(Meeting ID and passwords are the same as above)

TO ASSIST THE COURT REPORTER, the parties are ORDERED to: (1) state their name each time they speak and only speak when directed by the Court; (2) not to interrupt the Court or anyone else; (3) speak slowly and clearly; (4) use a dedicated land line if at all possible, rather than a cell phone; (5) if a cell phone is absolutely necessary, the parties must be stationary and not driving or moving; (6) no speaker phones under any circumstances; (7) provide the name and citation of any case cites; and (8) spell all names, even common names.

Case

Title / Nature of Case

3:00

Line: 1

22-CIV-03050 WILLIAM M. AMORT VS. ECCO RETAIL, LLC, ET AL

WILLIAM M. AMORT
ECCO RETAIL, LLC

JESSICA L. CAMPBELL
ANDREW KOZLOW

MOTION FOR FINAL APPROVAL OF CLASS SETTLEMENT BY PLAINTIFF
WILLIAM M. AMORT.

TENTATIVE RULING:

Parties to Appear. If no objection raised at the hearing, the Tentative Decision set forth below will be adopted.

TENTATIVE RULING

As a preliminary matter, the Court notes that Plaintiff's Counsel Joseph M. Szilagyi did not sign his declaration. Mr. Szilagyi shall submit a signed declaration.

This is a PAGA and putative class action regarding alleged wage and hour violations on behalf of 770 non-exempt employees who worked in California for Defendant Ecco Retail, LLC ("Defendant") between July 27, 2021 and August 12, 2023.

On December 27, 2024, this Court gave preliminary approval to the class and PAGA settlement between Plaintiff William Amort ("Plaintiff") and Defendant. As set forth in the declaration of Lluvia Islas on behalf of the claims administrator, Phoenix Settlement Administrators ("Phoenix"), on January 28, 2025, in accordance with the preliminary approval order, Phoenix mailed out the approved class notice to 770 putative class members. Ms. Islas describes the process to try to re-mail the 23 notices that were returned as undeliverable. (Islas Dec., ¶¶ 6-7.) There were no requests for exclusion and no objections. (Id. at ¶¶ 8-10.)

The Court Grants Approval of the Settlement

In reviewing the evidence presented, the Court finds that all the conditions for final approval have been met and the Court gives final approval to the settlement, including the allocation between the class and PAGA (Private Attorney General Act) settlement. (Code of Civ. Proc., § 382; *Richmond v. Dart Industries* (1981) 29 Cal.3d 462, 470). The class

members were provided proper notice as set forth in the Declaration of Ms. Islas. The class is ascertainable in that the class members have already been identified by Defendant and they received notice of the settlement.

There is a community of interest in that common questions of law and fact predominate involving whether defendant complied with wage and hour laws. For settlement purposes, this community of interest is sufficient. Plaintiff's claims are typical of the class claims because he is alleged to have suffered the same injury as other class members. William Amort adequately represents the class, as set forth in his declaration and in having experienced class counsel. The settlement avoids the risk of the uncertainty of litigation. The settlement is fair adequate and reasonable. The law favors settlement and the fact that the class might be able to obtain more from a trial must be balanced against the risk of not having a class certified, receiving less than the settlement, including a defense verdict, the time and money that it would take to take the case to trial and through a potential appeal, and the potential for a change in law. Plaintiff's counsel's declaration demonstrates that they have weighed the pros and cons of proceeding with this case and concluded that the settlement is fair and reasonable. The fact that no class member out of 770 objected to the settlement also strongly supports approval of the settlement.

The Court Grants Attorneys' Fees, Costs and Service Award

The Court grants the requested attorneys' fees of \$316,666.64, which represents one-third of the gross settlement amount of \$950,000. While a common fund fee is appropriate here, even a proper common fund-based fee award should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503 (*Lafitte*), the Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. The Supreme Court stated: "If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment." (*Id.* at p. 505.) In this case, the Court believes that a fee of one-third of the common fund is the proper award of attorneys' fees. (See, e.g., *Lafitte, supra*, 1 Cal.5th at p. 506 ["33 1/3 percent of the common fund is consistent with, and in the range of, awards in other class action lawsuits"]; *Chavez v. Netflix* (2008) 162 App. 4th 43, 66 fn. 11 [final fee award was 27.9% of the benefits].)

The Court performs a lodestar cross-check. Joseph Szilagy, an attorney on the case, submitted a declaration. Mr. Szilagy outlines his and his colleagues' experience with employment law and justifies their hourly rates based on their experience and in comparison to the Laffey Matrix. The Court finds the hourly rates reasonable. Plaintiff's counsel's base lodestar is \$278,992.50 based upon 351.30 hours for past work and excludes additional time counsel will spend. The Court finds that the work done by the attorneys was reasonable and necessary.

Plaintiff’s counsel request a multiplier, which the Court awards. The lodestar amount “ ‘may be adjusted by the court based on factors including ... (1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, (4) the contingent nature of the fee award.’ ([Citations])” (*Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866, 899.) “ ‘[T]he purpose of a fee enhancement is primarily to compensate the attorney for the prevailing party at a rate reflecting the risk of nonpayment in contingency cases as a class.” [Citation] ‘[T]he unadorned lodestar reflects the general local hourly rate for a fee-bearing case; it does not include any compensation for contingent risk, extraordinary skill, or any other factors a trial court may consider.... The adjustment to the lodestar figure, e.g., to provide a fee enhancement reflecting the risk that the attorney will not receive payment if the suit does not succeed, constitutes earned compensation; unlike a windfall, it is neither unexpected nor fortuitous. Rather, it is intended to approximate market-level compensation for such services, which typically includes a premium for the risk of nonpayment or delay in payment of attorney fees.’ [Citation] In cases involving the enforcement of constitutional or statutory rights, “such fee enhancements may make such cases economically feasible to competent private attorneys. [Citation.] ‘[M]ost lawyers of this quality do seem to consider the prospects of success and the fee recoverable before adding to their crowded calendars a case in which payment is contingent.’ ” [Citation.] (Ibid.)

The Court acknowledges the result obtained, the issues presented in this case and the contingent nature of this case, and finds that the multiplier is warranted. (*Laffitte, supra*, 1 Cal.5th at pp. 487-488 (multiplier in the 2 range not unreasonable because of the novelty and difficulty of the issues.)

The Court awards the requested costs of \$21,345.49 and finds them reasonable and necessary for the litigation. The Court finds that a reimbursement of \$11,500 to the claims administrator is reasonable and necessary.

The Court awards \$10,000 to William Amort as a service award. The Court has reviewed Plaintiff’s declaration and recognizes the work that he has performed and the potential reputational risk that he took by agreeing to be a putative class representative.

MEMORANDUM

I. Introduction

This is a wage and hour class action and PAGA representative action based on a “systematic pattern of wage and hour violations under the California Labor Code and Industrial Welfare Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate unfair competition.” (Second Amended Complaint, filed May 28, 2024, ¶ 3.) The parties have settled.

On December 27, 2024, the court granted preliminary approval. Plaintiff William M. Amort (“Plaintiff”) now moves the court for an order:

- (1) Granting final approval of the proposed Class Action and PAGA Settlement Agreement (“Settlement Agreement” or “Agreement”);
- (2) Awarding Class Counsel’s their attorneys’ fees of \$316,666.64 and reimbursement of their litigation costs of \$21,345.49;
- (3) Awarding the Class Representative Service Payment of \$10,000.00 to Plaintiff William Amort;
- (4) Approval of \$50,000.00 to resolve PAGA claims; and
- (5) Awarding \$11,500.00 to Phoenix Settlement Administrator for its Settlement Administration expenses.

(NOMM, filed Mar. 28, 2025, p. 2:7-15.)

The Settlement is attached as Exhibit 1 to Plaintiff’s Counsel Joseph Szilagyi’s declaration, filed Mar. 28, 2025.

Plaintiff proposes the distribution of the Gross Settlement Amount of \$ 950,000.00 (“GSA”) as follows:

		Amount	Cite / Comment
Net Settlement Amount	\$	540,487.87	Islas Dec., ¶ 11
Attorney Fees	\$	316,666.64	
Costs	\$	21,345.49	
Service Award	\$	10,000.00	
Settlement Admin	\$	11,500.00	
To LWDA	\$	37,500.00	(75% of \$50,000 PAGA Payment)
To PAGA employees	\$	12,500.00	(25% of \$50,000 PAGA Payment)

NOTES:

- Plaintiff’s Counsel Joseph Szilagyi’s declaration is unsigned.

II. Allegations in the Second Amended Complaint

Plaintiff brought his action against Ecco Retail, LLC and Ecco USA, Inc. (SAC, ¶ 1.) Plaintiff is a California resident who worked for Defendants during the relevant time periods. (Id. at ¶ 10.)

Plaintiff states that he exhausted procedural requirements of Labor Code § 2699.3. (Id. at ¶ 120.)

The class allegations are pled at ¶¶ 18 – 25 and include the following class and subclass:

- **Class:** All California citizens currently or formerly employed by Defendants as nonexempt employees in the State of California at any time between January 23, 2018 and the date of class certification.
- **Waiting Time Subclass:** All members of the Class who separated their employment with Defendant at any time between January 23, 2019 and the date of class certification.

(SAC, ¶¶ 20-21.)

Plaintiff asserts the following causes of action:

No	Cause of Action	SAC
1st	Failure to Pay Minimum Wages	¶¶ 38 – 44
2nd	Failure to Pay Overtime	¶¶ 45 – 56
3rd	Failure to Provide Meal Periods	¶¶ 57 – 65
4th	Failure to Permit Rest Breaks	¶¶ 66 – 72
5th	Failure to Reimburse Business Expenses	¶¶ 73 – 80
6th	Failure to Pay Sick Pay	¶¶ 81 – 87
7th	Failure to Provide Accurate Itemized Wage Statements	¶¶ 88 – 93
8th	Failure to Pay Timely During Employment	¶¶ 94 – 98
9th	Failure to Pay All Wages Due Upon Separation of Employment	¶¶ 99 – 104
10th	Violation of BPC §§ 17200, et seq.	¶¶ 105 – 114
11th	Enforcement of Labor Code §§ 2698, et seq. (PAGA)	¶¶ 115 – 122

III. Relevant Procedural History

On June 20, 2023, this court (Hon. Judge Swope) granted Plaintiff’s request for dismissal of individual, class, and PAGA claims against Ecco USA, Inc. without prejudice. (Order, filed June 22, 2023.)

On November 25, 2024, Judge Swope held a hearing on Plaintiff’s Motion for Preliminary Approval. Judge Swope indicated that he was inclined to grant the motion, provided the parties addressed the following concerns:

1. The objection/opt-out period for class action settlements shall be sixty (60) days instead of 45 days.
2. Paragraph 4: Please clarify the termination date for the class. Is it the date of the complaint?
3. Paragraph 8: Add, “The Court conditionally approves attorney fees up to one-third the Gross Settlement Amount: subject to class counsel providing evidence, such as billing records or comparable evidence, for the Court to perform a lodestar cross-check. The evidence should identify which attorneys or staff worked on each task, and provide support for the hourly rate sought and multiplier, if warranted. Similarly, the Court conditionally approves attorney costs up to \$ 22,000.00. Class counsel must sufficiently identify and calculate any projected costs so the Court can determine reasonableness.

The Court conditionally approves the Service Award of up to \$10,000 to the Named Plaintiff subject to class counsel providing evidence as to why a service enhancement is reasonable and what the class representative did beyond the expected service of a class representative. In addition, the class representative shall state via declaration or affidavit what the representative specifically did as services to the class and participation in the litigation, including the approximate amount of time spent on the case. General statements of “countless hours”, “potential stigma”, or “potential risk” are insufficient. (*Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 805–807; *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412; See *Golbar v. Dick’s Sporting Goods, Inc.* (2015) 238 Cal.App.4th 1251, 1272 [reduction of service award appropriate where case involvement lasted about 24 months and amounted to a total of 16 hours without testifying at trial, and does not state whether class representative was deposed or prepared written discovery].)

4. The proposed order filed by plaintiff’s counsel on October 30, 2024 lacks a copy of the class notice. Plaintiff’s counsel is asked to resubmit a copy of the proposed order within ten (10) court days after the hearing that includes the Class Notice appended as an exhibit for this Court’s review and approval.

(Minute Order, Nov. 25, 2024.)

On December 27, 2024, Judge Swope signed the order granting Preliminary Approval.

IV. Analysis

a. Procedural

Settlement Administration:

Lluvia Islas, a Case Manager for Settlement Administrator Phoenix Settlement Administrators (“Phoenix”) submitted a declaration regarding administration of the settlement. (Islas Dec., filed Mar. 28, 2025.) Ms. Islas reports that she received the class data from Defendant on January 14, 2025, with a final mailing list of 770 Class Members. (Id. at ¶ 3.) That same day, Phoenix conducted a NCOA search to update the class list. (Id. at ¶ 4.) “On January 28, 2025, Phoenix mailed the Notice via U.S. first class mail, in English and Spanish, to 770 Class Members on the Class List.” (Id. at ¶ 5.)

Phoenix has not received any requests for exclusion, notices of objection, or workweek disputes. (Id. at ¶¶ 8-10.)

Notice to LWDA:

Counsel provided notice to the LWDA of the Settlement on October 30, 2024 and states that the LWDA has not objected to or commented on the settlement or PAGA penalties. (Szilagyi Dec., ¶ 11, Ex. 2.) The LWDA website reflects this. (LWDA Case No. [LWDA-CM-898004-2](#), accessed on May 8, 2025.)

b. Merits

The trial court has broad discretion to determine whether a settlement agreement is fair, adequate, and reasonable. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 (called into doubt on other grounds *Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 503 (“California decisions from *Serrano III* forward have shown some uncertainty as to the role a percentage-of-the-recovery calculation may play in determining court-ordered attorney fees, but have not established any rule prohibiting such a calculation when the fee is to be drawn from a common fund created by the litigation”).) In exercising that discretion, the trial court normally considers the following factors: the strength of plaintiff’s case; the risk, expense, 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 stage of the proceedings; the experience and views of counsel; and the reaction of the class members to the proposed settlement. (Id.) A presumption of fairness exists where: the settlement is reached through arm’s length bargaining; investigation and discovery are sufficient to allow counsel and the court to act intelligently; counsel is experienced in similar litigation; and the percentage of objectors is small. (Id. at p. 1802.)

Arms Length Negotiation:

The parties attended mediation on November 7, 2023 with Jeff Ross as mediator. (Szilagyi Dec., ¶ 6.) Settlement was reached after continued negotiations through Mr. Ross. (Ibid.) Prior to mediation, Plaintiff’s counsel reviewed timekeeping and payroll data for Plaintiff and Class Members, written policies governing their employment, and other

information and data relevant to damages calculations. (Id. at ¶ 4.) Plaintiff's counsel was therefore able to reasonably assess damages prior to mediation. (Id. at ¶ 5.)

Distribution:

“The Notice advised Class Members of (1) the terms of the settlement, (2) their rights to participate in the settlement, object to the settlement, or request exclusion from the settlement, (3) the procedures and timing for doing any of these acts, (4) the date, time, and place scheduled for the Final Approval Hearing and instructions in the event a Class Member wished to be heard at that hearing; and (5) each Class Member's individualized information upon which his or her share of the settlement would be calculated, i.e., the number of weeks he or she worked during the Class Period according to Defendant's records, as well as the estimated amount of his or her respective settlement payment.” (MPA, pp. 7:27-8:6.)

23 notices were returned, and using skip-trace technology, Ms. Islas obtained 14 updated addresses and re-mailed the notices. (Islas Dec., ¶ 6.) As of the date of her declaration, 9 notices remained undeliverable. (Id. at ¶ 7.)

Class members were given 45 days to respond to Class Notice. (MPA, p. 8:18-21.)

Fairness, Adequacy and Reasonableness:

“Class Counsel calculated Defendant's potential exposure assuming Plaintiff prevailed on all aspects of his claims at trial, but weighed that value against the estimated chance of succeeding at class certification and trial.” (MPA, p. 4:18-20.) Class Counsel considered the risk that a jury might rule against Plaintiff, the expense and resources required for trial, difficulty of obtaining class certification, time and resources involved in formal discovery and other motions, and adverse rulings at any stage of the proceedings. (Id. at pp. 4:28-5:6.)

The highest individual settlement share is \$3,918.27, the lowest is \$15.55, and the average is \$701.93. (Islas Dec. at ¶ 12.) The highest individual PAGA payment is \$99.04, the lowest is \$0.93, and the average is \$32.55. (Id. at ¶ 13.)

Counsel investigated putative Class Members' claims, applicable law, and possible defenses; and assessed the value of the claims based on documents obtained through formal discovery. (Szilagyi Dec., ¶¶ 4-5.)

Class Counsel provide information as to their experience as counsel of record in class action cases in state and federal court. (Szilagyi Dec., ¶¶ 13-26.) Counsel believe the negotiated settlement is fair, adequate, and reasonable.

Attorney Fees:

Plaintiff's counsel seeks attorneys' fees of one-third of the GSA, or \$316,666.64. (MPA, p. 9:11-13.) Counsel states this is reasonable under the percentage-of-the-fund method and the lodestar method.

"In determining what percentage is "reasonable" for class counsel, courts commonly consider:

- the percentage likely to have been negotiated between private parties in a similar case (e.g., 30-40% in tort cases);
- percentages applied in other class actions (usually around 25%) (see *Bellinghausen v. Tractor Supply Co.* (ND CA 2015) 306 FRD 245, 260-261—9th Cir. has "consistently approved a 'benchmark' award of 25 percent of the common fund"; *Consumer Privacy Cases* (2009) 175 CA4th 545, 557-558, 96 CR3d 127, 136-137 & fn. 13 (citing studies that average of reasonable awards is 25%-33%));
- the quality of class counsel; and
- the size of the award. [See *In re Ikon Office Solutions, Inc. Secur. Litig.* (ED PA 2000) 194 FRD 166, 193]

(Weil & Brown, Cal. Prac. Guide: Civ. Pro Before Trial (Rutter, June 2024 Update) ¶ 14:145.3.)

Counsel argues that they efficiently litigated the matter, and that the class received significant recovery with an average recovery of \$791.93 with the highest payout reaching \$3,918.27. (MPA, p. 11:5-10.)

"Courts often cross-check fee awards using both methods: i.e., a lodestar approach as compared to a percentage of the common fund approach. [*In re Consumer Privacy Cases* (2009) 175 CA4th 545, 557, 96 CR3d 127, 136; *Laffitte v. Robert Half Int'l Inc.* (2016) 1 C5th 480, 504, 205 CR3d 555, 574—lodestar cross-check provides a mechanism for bringing objective measure of the work performed into the calculation of reasonable attorney fee; *In re Apple Inc. Device Performance Litig.* (9th Cir. 2022) 50 F4th 769, 784—although cross-check is discretionary, federal courts are encouraged to cross-check fee awards using both methods, particularly when using percentage-of-recovery method]. In cross-checking, **courts are not required to scrutinize hours as closely as in a traditional lodestar calculation, but may use 'counsel declarations summarizing overall time spent, rather than demanding and scrutinizing daily time sheets in which the work performed was broken down by individual task.'** [*Laffitte v. Robert Half Int'l Inc., supra*, 1 C5th at 505, 205 CR3d at 574]." (Weil & Brown, *supra*, at ¶ 14:145.2a (emphasis added).)

Counsel billed 351.30 hours, resulting in a lodestar of \$278,992.50. (Id. at ¶ 28.) Counsel provides the following chart summarizing its hours spent on the case:

Attorney	Hours	Hourly Rate	Total
Kashif Haque	94.60	\$950.00	\$89,870.00
Samuel Wong	53.80	\$950.00	\$51,110.00
Jessica L. Campbell	46.30	\$800.00	\$37,040.00
Ali Carlsen	41.30	\$700.00	\$28,910.00
Joseph M. Szilagyi	115.30	\$625.00	\$72,062.50
Totals	351.30		\$278,992.50

(Id. at ¶ 29.) Mr. Haque received his JD in 2001 and has exclusively focused on plaintiff’s employment litigation since 2004. (Id. at ¶ 17.) Mr. Wong received his JD in 2001 and that same year began working at a law firm in the employment department, where he worked on wage and hour class action lawsuits. (Id. at ¶ 20.) He became a founding partner of Aegis in 2003. (Id. at ¶ 20.) Ms. Campbell was admitted to the California Bar in 2011 and has dedicated her career to plaintiff’s side class actions. (Id. at ¶ 24.) She is a partner at Aegis. (Ibid.) Ms. Carlsen is a Senior Associate at Aegis and was admitted to the California Bar in June of 2013. (Id. at ¶ 25.) Prior to joining Aegis, she worked at another firm where she primarily handled employment litigation matters. (Ibid.) Mr. Szilagyi has been an associate at Aegis since 2019 and has worked exclusively on wage and hour class and representative action litigation. (Id. at ¶ 26.) Prior to joining Aegis, he gained experience including defense-side employment law litigation. (Ibid.) Mr. Szilagyi was admitted to the California Bar in 2017. (Ibid.)

Counsel states that its firm, Aegis Law Firm’s (“Aegis”), hourly rates have been approved by other courts in the same geographical area, citing one case from the Central District of California approving their hourly rates, though counsel does not specify which rates were approved and in what year. (See Szilagyi Dec., ¶ 27.) Counsel also links to the Laffey Matrix. The attorneys’ rates are equal to or less than those listed for attorneys with similar years of experience. (<http://www.laffeymatrix.com/see.html>.)

Weil & Brown states that “[o]nce the court has fixed the lodestar, it may increase or decrease that amount by applying a positive or negative “multiplier” to take into account a variety of other factors, including:

- the quality of the representation;
- the novelty and complexity of the issues;
- the results obtained; and
- the contingent risk presented. [*PLCM Group, Inc. v. Drexler* (2000) 22 C4th 1084, 1096, 95 CR2d 198, 206-207; *Thayer v. Wells Fargo Bank, N.A.* (2001) 92 CA4th 819, 833, 112 CR2d 284, 293; *Laffitte v. Robert Half Int’l Inc.* (2016) 1 C5th 480, 489, 205 CR3d 555, 561]

(Weil & Brown, Cal. Prac. Guide: Civ. Pro Before Trial (Rutter, June 2024 Update), ¶ 14:145.1.)

Counsel requests a multiplier of 1.13. (Szilagyi Dec., ¶ 28.) Counsel states the multiplier is justified based on the results achieved in settlement (MPA, pp. 13:20-14:9);

the fact that class members will receive immediate payment (Id. at p. 13:20-21); counsel's extensive review of documents produced through formal discovery (Id. at p. 14:12-17); the unique challenges of the case (Id. at pp. 14:18-15:23); the lack of objections and opt-outs by class members (Id. at p. 16:2-4); counsel's skill level (Id. at p. 16:6-11); counsel's preclusion from other work (Id. at p. 16:13-18); and the contingent nature of the fee award. (Id. at pp. 16:20-17:24.)

Based on the factors enumerated by counsel and the lodestar cross-check, the fees seem reasonable.

Costs:

Counsel requests reimbursement of actual costs of \$21,345.49. (MPA, pp. 17:28-18:2.) The Settlement allowed for reimbursement of up to \$22,000. (SA, § 3.2.2.) Counsel's fees are attached as Exhibit 3 to the Szilagyi Dec. and are mostly filing fees, mediation fees, expert fees, copies, and postage. (Szilagyi Dec., ¶ 31.) The requested costs appear reasonable and necessary.

Settlement Administration:

Plaintiff seeks \$11,500.00 in administration costs. (MPA, p. 19:3-4.) Phoenix attaches its invoice at Islas Dec., Ex. B, which actually reflects costs of \$11,747.24. The requested costs seem reasonable.

Class Rep Award:

Plaintiff seeks a service award of \$10,000. Plaintiff "assisted counsel in gathering the evidence necessary to prosecute the claims on behalf of the Class, responding to several rounds of written discovery, gathering and reviewing documents, helping Class Counsel evaluate the claims for mediation, and regularly seeking reports on the status of the case." (MPA, p. 18:23-26; Amort Dec., filed Mar. 28, 2025, ¶¶ 4-7.) Discovery included special interrogatories, two sets of form interrogatories, and requests for production of documents. (MPA, pp. 18:28-19:3.) Plaintiff also reviewed the settlement and was available during mediation by phone. (Id. at p. 19:2-5; Amort Dec., ¶¶ 10-11.) Plaintiff estimates that he spent between 85-100 hours on the case. (Amort Dec., ¶ 17.) Plaintiff notes that no class members objected to his requested service award. (MPA, p. 19:17-20.)

Weil & Brown states the following regarding incentive fees.

The court should consider the following factors, among others, in determining whether to pay an incentive or enhancement award to the class representatives:
— whether an incentive was necessary to induce the class representative to participate in the case;

— actions, if any, taken by the class representative to protect the interests of the class;

— the degree to which the class benefited from those actions;

— the amount of time and effort the class representative expended in pursuing the litigation;

— the risk to the class representative in commencing suit, both financial and otherwise;

— the notoriety and personal difficulties encountered by the class representative;

— the duration of the litigation;

— the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. [See *Clark v. American Residential Services LLC* (2009) 175 CA4th 785, 804, 96 CR3d 441, 455-456 (**reversing settlement that provided named plaintiffs with 44 times average payout to other class members where record did not justify payments**); *Golba v. Dick's Sporting Goods, Inc.* (2015) 238 CA4th 1251, 1272, 190 CR3d 337, 352-353—**court discretion to reduce incentive from \$3,500 to \$500 where plaintiff spent 16 hours on case, took no particular risk, had no unreimbursed expenses and other class members obtained \$10-\$30**; *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 CA4th 399, 412, 112 CR3d 324, 334-335—**incentive payments proper to compensate class representatives for expense or risk they incurred in conferring benefits on other class members**; *Roes, 1-2 v. SFBSC Mgmt., LLC* (9th Cir. 2019) 944 F3d 1035, 1056-1057 (**disapproving under FRCP 23 incentive payments which were both disproportionate to sums received by class and in exchange for class representative's general releases, which did not benefit class**); *In re Apple Inc. Device Performance Litig.* (9th Cir. 2022) 50 F4th 769, 786-787—**“incentive awards cannot categorically be rejected or approved.... So long as they are reasonable, they can be awarded”**]

(Weil & Brown, *supra*, at ¶ 14:146.10, emphasis added.)

Plaintiff's requested fee seems reasonable.
