

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

JAN 03 2019

Sherril R. Carter, Executive Officer/Clerk
By: Benigno Del Barrio, Deputy

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

JULIAN LOERA, individually, and on behalf of other members of the general public similarly situated; MATTHEW KOLMOS, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act; KIMBERLY KOLMOS, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act;

Plaintiffs,

v.

COLLECTION TECHNOLOGY, INC. a California corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No.: BC647015

**ORDER GRANTING
MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**

Date: January 3, 2019
Time: 9:00 a.m.
Dept.: SSC-17

1 **I. BACKGROUND**

2 Plaintiffs Julian Loera, Matthew Kolmos and Kimberly Kolmos sue their former
3 employer, Defendant Collection Technology, Inc., for alleged wage and hour violations.
4 Defendant is a private debt collection agency. Plaintiffs seek to represent a class of Defendant's
5 current and former non-exempt employees.

6 On January 17, 2017, Plaintiffs Matthew and Kimberley Kolmos filed their initial class
7 action complaint alleging claims for (1) Unpaid Overtime [Labor Code §§510, 1198]; (2) Unpaid
8 Meal Period Premiums [Labor Code §§ 226.7, 512(a)]; (3) Unpaid Rest Period Premiums [Labor
9 Code §226.7]; (4) Unpaid Minimum Wages [Labor Code §§ 1194, 1197, and 1197.1]; (5) Final
10 Wages Not Timely Paid [Labor Code §204]; (6) Wages Not Timely Paid During Employment
11 [Labor Code §204]; (7) Non-Compliant Wage Statements [Labor Code §226(a)]; (8) Failure to
12 Keep Requisite Payroll Records [Labor Code §1174(d)]; (9) Unpaid Reporting Time Pay [Labor
13 Code §1174(d)]; and (10) Unreimbursed Business Expenses [Labor Code §§2800 and 2802]. The
14 operative First Amended Complaint, filed on March 13, 2017, adds Plaintiff Julian Loera as a
15 PAGA representative and adds a cause of action for recovery of PAGA penalties.

16 On December 1, 2017, the Parties participated in a mediation conducted by attorney
17 Deborah Crandall Saxe. With the aid of Ms. Saxe, the parties were able to reach agreement
18 regarding the terms of a settlement. The parties subsequently executed their *Joint Stipulation of*
19 *Class Action and PAGA Settlement and Release* ("Settlement Agreement"), a copy of which was
20 filed with the Court.

21 On August 1, 2018, following revisions to the Settlement Agreement (as provided in
22 Amendment No. 1), the Court entered an Order Granting Motion for Preliminary Approval of
23 Class Action Settlement on Conditions, which granted preliminary approval of the class action
24 settlement contingent upon the Parties addressing specific requests listed by the Court. To
25 address the Court's requests in the Preliminary Approval Order, the Parties met and conferred,

1 negotiated, and executed an Amendment No. 2 to Joint Stipulation of Class Action and PAGA
2 Settlement and Release ("Amendment No. 2") on August 3, 2018.

3 Now before the Court is Plaintiff's motion for final approval of the settlement.

4 **II. DISCUSSION**

5 **A. SETTLEMENT CLASS DEFINITION**

6 The Settlement Agreement defines "Class" or "Class Members" as "any and all current
7 and former hourly-paid or non-exempt employees who worked for Defendant within the State of
8 California at any time during the period from January 17, 2013 to the Preliminary Approval
9 Date. (Settlement Agreement, ¶1.2)

10 Class Period is from January 17, 2013 to the Preliminary Approval Date. (¶1.5)

11 The Parties agree to stipulate to class action certification only for purposes of the
12 Settlement. (¶I)

13 There are 941 putative Class Members. (Declaration of Mary Butler ¶¶ 5.)

14 **B. TERMS OF SETTLEMENT AGREEMENT**

15 The essential terms are as follows:

- 16 • The Gross Settlement Sum ("Gross") is **\$1,350,000, non-reversionary.** (¶1.13)
- 17 • The Net Settlement Sum ("Net") (**\$724,728.50**) is the Gross minus:
 - 18 ○ Up to **\$472,500** (35%) for attorney fees (¶1.4);
 - 19 ○ Up to **\$25,000** for attorney costs (*Ibid.*);
 - 20 ○ Up to **\$24,000** for Service Awards to the class representatives [**\$8k x 3**]
21 (*Ibid.*);
 - 22 ○ Estimated **\$15,000** for claims administration costs (*Ibid.*);
 - 23 ○ Payment of **\$37,500** (75% of \$50,000 PAGA penalty) to the LWDA (¶1.25);
 - 24 and

1 ○ Estimated **\$51,271.50** for the employer's share of payroll taxes (§1.9;
2 Plaintiff's Supp. Brief at 8:3-7).

- 3 ● There is no claims process. Class members will receive a settlement payment unless
4 they opt-out. (§§ 1.26, 2.4)
- 5 ● "Response Deadline" means the date that is 45 calendar days after the Notice Mailing
6 Date, which will be the deadline for a Class Member to Opt Out, dispute Workweeks,
7 and/or file and serve a written objection to the Settlement, and which will be
8 indicated on the Class Notice that is mailed to the Class Members (Amd. No. 1,
9 §1.34)

10 ○ Defendant has the right to rescind if opt-outs exceed 5% of the settlement
11 class. (§3.7.1)

- 12 ● Individual Settlement Amounts: The Settlement Administrator shall compute the
13 Individual Settlement Amounts by calculating each Class Members Payment Ratio
14 Fraction, which is a fraction that has, as its numerator, the pertinent Class Member's
15 individual workweeks and has, as its denominator, the collective total Workweeks of
16 all Participating Class Members. (§§ 1.30, 2.5.1)

17 ○ For tax purposes, payments to class members will be allocated: 33.33% to
18 wages and 66.67% to interest, penalties, and non-wage damages. (§1.14)

- 19 ● Class Members will have 180 calendar days from the date of issuance of the check to
20 cash their Individual Settlement Payment check. To the extent that Individual
21 Settlement Payment checks have not been cashed or deposited within the 180-day
22 time period, the checks will be cancelled and the funds associated with such cancelled
23 checks ("Unused Funds") will be transmitted to Alliance for Children's Rights in
24 conformity with California Code of Civil Procedure, which has been selected by
25 mutual agreement of the Parties and approved by the Court. The Settlement

1 Administrator shall prepare any and all report(s) and declaration(s) regarding the
2 distribution of the Unused Funds, as ordered by the Court. The Settlement
3 Administrator shall also undertake amended and/or supplemental tax filings and
4 reporting, required under applicable local, state, and federal tax laws, that are
5 necessitated due to the cancellation of any Individual Settlement Payment checks. To
6 the extent that the Settlement Administrator is able to obtain or receive the return or
7 refund of the amounts that were transmitted to taxing authorities for the employer's
8 and employee's share of payroll taxes and withholding associated with cancelled
9 Individual Settlement Payment checks, these amounts shall be transmitted in the same
10 manner as the Unused Funds, in accordance with this Section. Participating Class
11 Members whose Individual Settlement Payment checks are voided shall, nevertheless,
12 be bound to the Settlement, the Final Approval Order and Judgment, and the release
13 of Released Claims against the Released Parties. (Amd. No. 2, ¶2.5.3.)

- 14 • The Gross Settlement Sum specifically contemplates as of December 1, 2017, a total
15 class size of 951 Class Members, working 75,486 workweeks. If the class size or
16 workweeks as of December 1, 2017 is determined to be more than a 10% increase of
17 these figures, Defendant shall increase its contribution to the Gross Settlement Sum
18 on a pro-rata basis for each additional Class Member or workweek. (¶3.7.2)
- 19 • The settlement administrator is Simpluris, Inc. (¶1.36)
- 20 • Notice of Final Judgment will be posted on the Settlement Administrator's website
21 for 60 calendar days following entry of judgment by the Court. (Amd. No. 1, ¶3.5.1.)
- 22 • Release of Claims by All Settlement Class Members. Upon the Effective Date, the
23 Class Representatives and each of the Participating Class Members shall be deemed
24 to have, and by operation of the Judgment shall have fully, finally, and forever
25

1 released, relinquished and discharged all Released Claims applicable to each of
2 them. (§3.6.1.i)

- 3 ○ "Released Claims" means all claims, demands, rights, liabilities and causes of
4 action of every nature and description whatsoever including without
5 limitation statutory, constitutional, contractual or common law claims,
6 against the Released Parties (as defined below), and any of them, for relief
7 and penalties, that accrued from January 17, 2013 to the Preliminary
8 Approval Date and as a result of Class Members' employment by Defendant
9 in California, that arise under any federal, state, or local law or administrative
10 order that was or could have been pled based on the facts alleged in the
11 Operative Complaint, including claims of failure to pay wages upon
12 termination and/or resignation, failure to pay overtime wages, failure to pay
13 minimum wages, failure to provide compliant meal and rest periods and/or
14 associated premiums, failure to pay wages timely during employment, failure
15 to provide accurate wage statements, failure to reimburse business expenses,
16 failure to pay reporting time pay, unfair competition, and violations of the
17 Fair Labor Standards Act, California Labor Code §§ 200, 201, 202, 203, 204,
18 226, 226.7, 510, 512, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802,
19 applicable Wage Orders of the Industrial Wage Commission, and California
20 Business & Professions Code §§ 17200 to 17208, including without
21 limitation all related claims for restitution and other equitable relief arising
22 California Business and Professions Code §§ 17200, et seq., interest on
23 unpaid wages, unpaid wages, attorneys' fees or litigation costs, and penalties,
24 including and not limited to penalties under California Labor Code § 2698, et
25 seq. (Amd. No. 1, ¶1.32.)

1 substantially similar that is agreed to by the Settling Parties, will be printed
2 on each Individual Settlement Payment check: "If you cash, deposit, or
3 otherwise negotiate this check, you will be deemed to have opted in for
4 purposes of the Fair Labor Standards Act ("FLSA") and to have, thereby,
5 released the Released Parties of the Released Claims which arise under the
6 FLSA." (Amd. No. 1, ¶3.6.1.iii)

- 7 ○ Class Representatives will also provide general releases and §1542 waivers.
8 (¶3.6.2)

9 **C. ANALYSIS OF SETTLEMENT AGREEMENT**

10 **1. Standards for Final Fairness Determination**

11 "Before final approval, the court must conduct an inquiry into the fairness of the
12 proposed settlement." (Cal. Rules of Court, rule 3.769(g).) "If the court approves the settlement
13 agreement after the final approval hearing, the court must make and enter judgment. The
14 judgment must include a provision for the retention of the court's jurisdiction over the parties to
15 enforce the terms of the judgment. The court may not enter an order dismissing the action at the
16 same time as, or after, entry of judgment." (Cal. Rules of Court, rule 3.769(h).)

17 "In a class action lawsuit, the court undertakes the responsibility to assess fairness in
18 order to prevent fraud, collusion or unfairness to the class, the settlement or dismissal of a class
19 action. The purpose of the requirement [of court review] is the protection of those class
20 members, including the named plaintiffs, whose rights may not have been given due regard by
21 the negotiating parties." (See *Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of*
22 *America* (2006) 141 Cal. App.4th 46, 60 [internal quotation marks omitted]; see also *Wershba v.*
23 *Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245 ("*Wershba*") [Court needs to "scrutinize
24 the proposed settlement agreement to the extent necessary to reach a reasoned judgment that the
25 agreement is not the product of fraud or overreaching by, or collusion between, the negotiating

1 because ‘the public interest may indeed be served by a voluntary settlement in which each side
2 gives ground in the interest of avoiding litigation.’” (*Wershba, supra*, 91 Cal.App.4th at pg.
3 250.)

4 **2. Does a presumption of fairness exist?**

- 5 a. Was the settlement reached through arm’s-length bargaining? Yes. On
6 December 1, 2017 the Parties participated in a full-day mediation conducted by
7 Ms. Saxe. During the mediation, Class Counsel represents that the Parties
8 exchanged information and discussed all aspects of the case. With the aid of the
9 mediator's evaluations and proposal, the Parties reached the Settlement described
10 herein to resolve this lawsuit in its entirety. (Aiwazian Decl. ISO Prelim
11 Approval ¶11.)
- 12 b. Were investigation and discovery sufficient to allow counsel and the court to act
13 intelligently? Yes. Class Counsel represents that both sides used the pre-
14 mediation time to investigate the veracity strength and cope of the claims, and
15 Class Counsel was preparing the case for class certification. Class Counsel
16 further represents that both sides propounded and responded to multiple written
17 discovery requests in various forms. The Settling Parties also engaged in a
18 *Belaire-West* notice administration and Defendant produced the contact
19 information of putative class members who did not opt out during the *Belaire-*
20 *West* Notice Administration process. Class Counsel represents that the data and
21 documents that were reviewed and analyzed included and were not limited to:
22 Plaintiffs and other Class Members' employment records, a detailed sampling of
23 Class Members' time and pay data, multiple job descriptions, multiple job
24 descriptions, internal memoranda, Defendant’s Employee Handbook, and
25 Defendant’s operations and employment policies. (*Id.* at ¶12.)

- 1 c. Is counsel experienced in similar litigation? Yes. Class Counsel is experienced
 2 in class action litigation, including wage and hour class actions. (*Id.* at ¶¶ 2-7.)
 3 d. What percentage of the class has objected? Zero objectors. (Butler Decl., ¶13.)

4 CONCLUSION: The settlement is entitled to a presumption of fairness.

5 **2. Is the settlement fair, adequate, and reasonable?**

- 6 a. Strength of Plaintiff's case. "The most important factor is the strength of the case
 7 for plaintiff on the merits, balanced against the amount offered in settlement."
 8 (*Kullar, supra*, 168 Cal.App.4th at pg. 130.) Class Counsel has provided a
 9 detailed analysis of the factual basis, strengths and weaknesses, and estimated
 10 values of the alleged claims. (Supp. Aiwazian Decl. ISO Prelim Approval ¶¶ 6-
 11 65.) The estimated maximum valuations of the claims are summarized in the table
 12 below.

Violation	Maximum Exposure
Failure to Pay Overtime	\$1,586,630.40
Meal Break Violations	\$2,115,507.20
Rest Break Violations	\$1,057,753.60
Minimum Wage Violations	\$1,586,630.60
Waiting Time Penalties	\$2,493,696.00
Failure to Pay Reporting Time Pay	\$2,115,507.20
Failure to Reimburse	\$388,880.00
PAGA	\$231,000.00
Total	\$11,575,605.00

23 (*Ibid.*)
 24
 25

1 Class Counsel obtained a gross settlement valued at \$1,350,000. This is
2 12% of Defendant's maximum potential exposure, which, given the uncertain
3 outcomes, is within the "ballpark of reasonableness."

4 b. Risk, expense, complexity and likely duration of further litigation. Given the
5 nature of the class claims, the case is likely to be expensive and lengthy to try.
6 Procedural hurdles (e.g., motion practice and appeals) are also likely to prolong
7 the litigation as well as any recovery by the class members.

8 c. Risk of maintaining class action status through trial. Even if a class is certified,
9 there is always a risk of decertification. (*Weinstat v. Dentsply Intern., Inc.* (2010)
10 180 Cal.App.4th 1213, 1226 ["Our Supreme Court has recognized that trial courts
11 should retain some flexibility in conducting class actions, which means, under
12 suitable circumstances, entertaining successive motions on certification if the
13 court subsequently discovers that the propriety of a class action is not
14 appropriate."].)

15 d. Amount offered in settlement. As indicated above, Class Counsel negotiated a
16 \$1,350,000, non-reversionary Gross Settlement Sum. Assuming the Court
17 approves all of the requested deductions, including \$48,599.99 for the employer's
18 share of payroll taxes (See Butler Decl. ¶18), approximately \$734,064.15 will be
19 available for automatic distribution to participating class members. The average
20 settlement share to the 941 participating class members will be approximately
21 \$780.09. [$\$734,064.15 \text{ Net} \div 941 \text{ participating class members} = \780.09]

22 e. Extent of discovery completed and stage of the proceedings. As discussed
23 above, at the time of the settlement, the parties had conducted discovery
24 sufficient to value the class for settlement purposes.

1 f. Experience and views of counsel. The settlement was negotiated and endorsed
2 by Class Counsel who, as indicated above, is experienced in class action
3 litigation, including wage and hour cases. Class Counsel believes that the
4 settlement is fair, reasonable and adequate for each participating Class Member.
5 (Declaration of Edwin Aiwazian ISO Final Approval ¶21.)

6 g. Presence of a governmental participant. This factor is not applicable here.

7 h. Reaction of the class members to the proposed settlement.

8	Number of class members:	941
9	Number of notices mailed:	941
10	Number of undeliverable notices:	9
11	Number of opt-outs:	0
12	Number of objections:	0
13	Number of participating class members:	941

14 (Butler Decl., ¶¶5-15.)

15 Following the initial notice mailing, one individual contacted Simpluris to request
16 inclusion in the settlement class. Information regarding the self-identifying class member was
17 forwarded to Defendant's counsel. It was determined that the individual should not be included
18 in the Settlement because he worked in a managerial position during the class period and
19 therefore was not a Class Member. (Butler Decl. ¶9.)

20 CONCLUSION: The settlement can be deemed "fair, adequate, and reasonable." The
21 Court finds that the notice was adequate and conforms to due process requirements.

22 **D. ATTORNEY FEES AND COSTS**

23 Class Counsel requests **\$472,500** (35%) for attorney fees and **\$21,835.86** for costs.
24 (Aiwazian Decl. ISO Final Approval ¶¶ 9, 19.)

1 In determining the appropriate amount of a fee award, courts may use the lodestar
2 method, applying a multiplier where appropriate. (*PLCM Group, Inc. v. Drexler* (2000) 22
3 Cal.4th 1084, 1095-96.) A percentage calculation is permitted in common fund cases. (*Laffitte v.*
4 *Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503.) Despite any agreement by the parties to the
5 contrary, courts have an independent responsibility to review an attorney fee provision and
6 award only what it determines is reasonable. (*Garabedian v. Los Angeles Cellular Telephone*
7 *Company* (2004) 118 Cal.App.4th 123, 128.)

8 In the instant case, fees are sought pursuant to the percentage method. (Aiwazian Decl.
9 ISO Final Approval ¶9.) The \$472,500 fee request is 35% of the Gross Settlement Fund, which is
10 slightly above average. (*In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 558, fn. 13
11 [“Empirical studies show that, regardless whether the percentage method or the lodestar method
12 is used, fee awards in class actions average around one-third of the recovery.”].)

13 As for the lodestar, Class Counsel indicates that the firm worked a combined total of
14 974.2 hours on this case at an hourly rate of \$500. (Aiwazian Decl. ISO Final Approval ¶11.)
15 This amounts to an unadjusted lodestar of \$487,100, which is slightly higher than Class
16 Counsel’s percentage-based fee request.

17 Here, the \$472,500 fee request represents a reasonable percentage of the total funds paid
18 by Defendant. Further, the notice expressly advised class members of the fee request, and no
19 one objected. (Butler Decl. ¶13 and Ex. A.) Accordingly, the Court awards fees in the amount of
20 **\$472,500.**

21 As for costs, Class Counsel requests **\$21,835.86.** (Aiwazian Decl. ISO Final Approval
22 ¶19.) This is less than the \$25,000.00 cap provided in the settlement agreement (¶1.4). This
23 amount was disclosed to Class Members in the Notice, and no objections were received. (Butler
24 Decl. ¶13 and Ex. A.) Class Counsel incurred actual costs in the amount of \$21,835.86.

1 f. Experience and views of counsel. The settlement was negotiated and endorsed
2 by Class Counsel who, as indicated above, is experienced in class action
3 litigation, including wage and hour cases. Class Counsel believes that the
4 settlement is fair, reasonable and adequate for each participating Class Member.
5 (Declaration of Edwin Aiwazian ISO Final Approval ¶21.)

6 g. Presence of a governmental participant. This factor is not applicable here.

7 h. Reaction of the class members to the proposed settlement.

8 Number of class members: 941

9 Number of notices mailed: 941

10 Number of undeliverable notices: 9

11 Number of opt-outs: 0

12 Number of objections: 0

13 Number of participating class members: **941**

14 (Butler Decl., ¶¶5-15.)

15 Following the initial notice mailing, one individual contacted Simpluris to request
16 inclusion in the settlement class. Information regarding the self-identifying class member was
17 forwarded to Defendant's counsel. It was determined that the individual should not be included
18 in the Settlement because he worked in a managerial position during the class period and
19 therefore was not a Class Member. (Butler Decl. ¶9.)

20 CONCLUSION: The settlement can be deemed "fair, adequate, and reasonable." The
21 Court finds that the notice was adequate and conforms to due process requirements.

22 **D. ATTORNEY FEES AND COSTS**

23 Class Counsel requests \$472,500 (35%) for attorney fees and \$21,835.86 for costs.
24 (Aiwazian Decl. ISO Final Approval ¶¶ 9, 19.)

1 In determining the appropriate amount of a fee award, courts may use the lodestar
2 method, applying a multiplier where appropriate. (*PLCM Group, Inc. v. Drexler* (2000) 22
3 Cal.4th 1084, 1095-96.) A percentage calculation is permitted in common fund cases. (*Laffitte v.*
4 *Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503.) Despite any agreement by the parties to the
5 contrary, courts have an independent responsibility to review an attorney fee provision and
6 award only what it determines is reasonable. (*Garabedian v. Los Angeles Cellular Telephone*
7 *Company* (2004) 118 Cal.App.4th 123, 128.)

8 In the instant case, fees are sought pursuant to the percentage method. (Aiwazian Decl.
9 ISO Final Approval ¶9.) The \$472,500 fee request is 35% of the Gross Settlement Fund, which is
10 slightly above average. (*In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 558, fn. 13
11 [“Empirical studies show that, regardless whether the percentage method or the lodestar method
12 is used, fee awards in class actions average around one-third of the recovery.”].)

13 As for the lodestar, Class Counsel indicates that the firm worked a combined total of
14 974.2 hours on this case at an hourly rate of \$500. (Aiwazian Decl. ISO Final Approval ¶11.)
15 This amounts to an unadjusted lodestar of \$487,100, which is slightly higher than Class
16 Counsel’s percentage-based fee request.

17 Here, the \$472,500 fee request represents a reasonable percentage of the total funds paid
18 by Defendant. Further, the notice expressly advised class members of the fee request, and no
19 one objected. (Butler Decl. ¶13 and Ex. A.) Accordingly, the Court awards fees in the amount of
20 **\$472,500.**

21 As for costs, Class Counsel requests **\$21,835.86.** (Aiwazian Decl. ISO Final Approval
22 ¶19.) This is less than the \$25,000.00 cap provided in the settlement agreement (¶1.4). This
23 amount was disclosed to Class Members in the Notice, and no objections were received. (Butler
24 Decl. ¶13 and Ex. A.) Class Counsel incurred actual costs in the amount of \$21,835.86.

1 (Aiwazian Decl. ISO Final Approval ¶19, Ex. B.) The costs include Mediation (\$9,700.00),
2 Belaire-West Notice Mailing (\$2,674.75), and Photocopies (\$1,452.00). (*Id.* at ¶19 and Ex. B.)

3 The costs appear to be reasonable and necessary to the litigation, are reasonable in
4 amount, and were not objected to by the class.

5 For all of the foregoing reasons, costs of **\$21,835.86** are approved.

6 **E. INCENTIVE AWARD TO CLASS REPRESENTATIVE**

7 An incentive fee award to a named class representative must be supported by evidence
8 that quantifies time and effort expended by the individual and a reasoned explanation of
9 financial or other risks undertaken by the class representative. (See *Clark v. American*
10 *Residential Services LLC* (2009) 175 Cal.App.4th 785, 806-807; see also *Cellphone*
11 *Termination Cases* (2010) 186 Cal.App.4th 1380, 1394-1395 [“Criteria courts may consider in
12 determining whether to make an incentive award include: (1) the risk to the class representative
13 in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties
14 encountered by the class representative; (3) the amount of time and effort spent by the class
15 representative; (4) the duration of the litigation and; (5) the personal benefit (or lack thereof)
16 enjoyed by the class representative as a result of the litigation. (Citations.)”].)

17 Here, Class Representatives Julian Loera, Matthew Kolmos, and Kimberly Kolmos each
18 request an enhancement award of **\$8,000** [\$24,000 total]. (Aiwazian Decl. ISO Final Approval
19 ¶20.)

20 Plaintiff Julian Loera worked for Defendant in an hourly-paid non-exempt position from
21 approximately December 2012 to August 2016. (Declaration of Julian Loera ¶2.) Mr. Loera
22 represents that he contributed to this litigation as follows: researching employment law class
23 action firms, consulting with Class Counsel regarding his potential claims, meeting with Class
24 Counsel, gathering documents relating to his employment with Defendant, answering Class
25 Counsel’s questions, identifying potential witnesses, reviewing Defendant’s discovery requests,

1 and reviewing the Settlement Agreement. (*Id.* at ¶¶2-5.) In total, Mr. Loera estimates that he
2 devoted ⁵³45 hours to activities relating to this litigation. (*Ibid.*)

3 Plaintiff Matthew Kolmos worked for Defendant in an hourly-paid non-exempt position
4 from approximately October 2012 to November 2015. (Declaration of Matthew Kolmos ¶2.)
5 Mr. Kolmos represents that he contributed to this litigation as follows: researching employment
6 law class action firms, consulting with Class Counsel regarding his potential claims, meeting
7 with Class Counsel, gathering documents relating to his employment with Defendant, answering
8 Class Counsel's questions, identifying potential witnesses, reviewing Defendant's discovery
9 requests, and reviewing the Settlement Agreement. (*Id.* at ¶¶2-5.) In total, Mr. Kolmos estimates
10 that he devoted ⁵⁴49 hours to activities relating to this litigation. (*Ibid.*)

11 Plaintiff Kimberly Kolmos worked for Defendant in an hourly-paid non-exempt position
12 from approximately July 2012 to January 2016. (Declaration of Kimberly Kolmos ¶2.) Ms.
13 Kolmos represents that she contributed to this litigation as follows: researching employment law
14 class action firms, consulting with Class Counsel regarding her potential claims, meeting with
15 Class Counsel, gathering documents relating to her employment with Defendant, answering
16 Class Counsel's questions, identifying potential witnesses, reviewing Defendant's discovery
17 requests, and reviewing the Settlement Agreement. (*Id.* at ¶¶2-5.) In total, Ms. Kolmos estimates
18 that she devoted ⁴⁷41 hours to activities relating to this litigation. (*Ibid.*)

19 Plaintiffs did not do more than would be expected of any litigant and did not contribute
20 substantial time to the efforts on behalf of the class. An award for each of the three named
21 Plaintiffs of \$5,000 each [\$15,000 total] appears to be reasonable inducement for Plaintiffs'
22 participation in the case.

23 **F. CLAIMS ADMINISTRATION COSTS**

24 Claims administrator, Simpluris, Inc., requests \$11,500 in compensation for its work in
25 administrating this case. (Butler Decl. ¶18.) At the time of preliminary approval, costs of

1 settlement administration were estimated at \$15,000. (Settlement Agreement ¶1.4.) Class
2 Members were provided with notice of this amount and did not object. (Butler Decl. ¶13 and
3 Ex. A.)

4 Accordingly, claims administration costs are approved in the amount of **11,500**.

5 **III. CONCLUSION AND ORDER**

6 **A. RULING**

7 The Court hereby:

- 8 (1) Grants class certification for purposes of settlement;
9 (2) Grants final approval of the settlement as fair, adequate, and reasonable;
10 (3) Awards **\$472,500** in attorney fees to Class Counsel, Lawyers for Justice, PC;
11 (4) Awards **\$21,835.86** in litigation costs to Class Counsel;
12 (5) Approves payment of **\$37,500** (75% of \$50,000 PAGA penalty) to the LWDA;
13 (6) Awards **\$15,000** as Class Representative Service Awards to Plaintiffs Julian Loera,
14 Matthew Kolmos, and Kimberly Kolmos [\$5,000 each];
15 (7) Awards **\$11,500** in claims administration costs to Simpluris, Inc.;

16 ~~(8) Orders class counsel to lodge a proposed Judgment, consistent with this ruling and
17 containing the class definition and the full release language by~~

18 ~~_____ , 2019. In this regard the Court
19 notes that the proposed Judgment lodged with the Court contains inappropriate
20 injunctive language at Para. 3. All such terms shall be deleted;~~

- 21 (9) Orders class counsel to provide notice to the class members pursuant to California
22 Rules of Court, rule 3.771(b); and

23 //

24 //

25 //

(10) A Non-Appearence Case Review re: Final Report re: Distribution of Settlement Funds

is set for 8/16/19, at 8:30

Final Report is to be filed by 8/9/19

Dated: 1/3/19

Maren E. Nelson

MAREN E. NELSON

Judge of the Superior Court

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25