PARTIES/ATTORNEYS

Plaintiff	Elias Talamantes	Ronald H. Bae Olivia D. Scharrer Carson M. Turner AEQUITAS LEGAL GROUP
Defendant	Pacific Petroleum California, Inc.	Gary W. Bethel Andrew H. Woo LITTLER MENDELSON, P.C.

This is a class action. On May 12, 2023, plaintiff filed his complaint alleging the following causes of action based on wage and hour violations: (1) Violation of California Labor Code §§ 510, 1194, and 1198 (Failure to Pay Regular and Overtime Wages); (2) Violation of California Labor Code §§ 510, 1771, 1774, 1194, 1811, and 1815 (Failure to Pay Prevailing Wages on Public Works Projects); (3) Violation of California Labor Code §§ 226.7 and 512(a) (Failure to Provide Compliant Meal Periods or Pay Premium Compensation in Lieu Thereof); (4) Violation of California Labor Code § 226.7 (Failure to Provide Compliant Rest Periods or Pay Premium Compensation in Lieu Thereof); (5) Violation of California Labor Code §§ 201 – 203 (Failure to Pay Wages Timely Upon Termination); (6) Violation of California Labor Code § 204 (Failure to Pay Wages Timely During Employment; (7) Violation of California Labor Code § 226(a) (Failure to Provide Accurate Itemized Wage Statements); (8) Violation of California Business & Professions Code §§ 17200, et seq.; and (9) Penalties pursuant to California Labor Code §§ 2698, et seq. (Private Attorneys General Act).

On Calendar

Plaintiff seeks final approval of a $731,302.49 class action settlement for approximately 271 current and former employees from May 12, 2019 through the date preliminary approval, except for employees that defendant classified as drivers.

Settlement Details

The class is defined as:

> all individuals who are or were employed by defendant as non-exempt employees in California [from May 12, 2019 through the date of preliminary approval], except for employees that defendant classified as drivers.

(Settlement Agreement attached to Bae Decl. as Exh. A, ¶¶ 1.5, 1.12 [Settlement Agreement].)

The Gross Settlement Amount *increased* after preliminary approval because the escalator clause was triggered (21,619 workweeks, which is over the 19,412 workweek threshold in the escalator clause). It is expected there will be 271 members of the class. The gross settlement of $731,302.49 will be paid into a common fund. The fund will be reduced as follows:

Gross Settlement Amount	$731,302.49
Class Counsel Fees	$243.524
Class Counsel Expenses	$ 20,000
PAGA Allocation LWDA	$ 48,750
PAGA Allocation to Aggrieved Employees	$ 16,250
Settlement Administration Costs	$ 9,000
Plaintiffs Service Award	$ 10,000
Net Class Settlement Amount	$410,636.49

The amount to be paid to each participating class member will be apportioned based on the number of workweeks worked by each of the participating class members. More specifically, each participating class member shall receive "An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks." (Settlement Agreement, ¶ 3.2.4.) The estimated 271 class members will receive an average recovery per class member of approximately $1,415.35 net. The gross settlement amount is non-reversionary. (Settlement Agreement, ¶ 3.1.)

Settlement Discussion

1. General Standards for Approval of a Class Action Settlement

The court preliminarily approved the requests in this motion. (See October 1, 2024 Order Granting Preliminary Approval of Class Action and PAGA Settlement.) Nevertheless, at the final approval hearing, "the court must conduct an inquiry into the fairness of the proposed settlement." (CRC 3.769(g).) If the court approves the settlement agreement, it enters judgment accordingly. (CRC 3.769(h); see *Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 93.)

Final approval involves the same factors involved in the preliminary approval process, although the court's scrutiny is more rigorous and thorough. (*Cho v. Seagate Technology Holdings, Inc*. (2009) 177 Cal.App.4th 734, 743; see also *Wershba v. Apple Computer, Inc*. (2001) 91 Cal.App.4th 224, 240.) " 'Due regard,' . . . 'should be given to what is otherwise a private consensual agreement between the parties. The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." [Citation.]....' " (*7–Eleven Owners* (2000) 85 Cal.App.4th 1135, 1145, quoting from *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.) The test is not whether the maximum amount is secured, but whether the settlement is reasonable under all the circumstances. For example, a trial court does not abuse its discretion in approving a settlement when it found that the settlement was achieved at arm's length negotiation, including review of the mediator's declaration; the fact the case was vigorously litigated; plaintiff was represented by experienced counsel; the number of class members who objected or opted out was very small; and plaintiff faced considerable risk in proceeding to trial. (*Cho, supra*, at p. 745.)

As was true for preliminarily approval, the proponents for purposes of final approval have the burden to show the settlement is fair, although 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. (*Dunk, supra*, at p. 1802.) This is only an initial presumption; a trial court's ultimate approval of a class action settlement will be vacated if the court "is not provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." In short, the trial court may not determine the adequacy of a class action settlement "without independently satisfying itself that the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation." (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408.)

The court undoubtedly gives considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm's-length transaction entered without self-dealing or other potential misconduct. While an agreement reached under these circumstances presumably will be fair to all concerned, particularly when few of the affected class members express objections, in the final analysis it is the court that bears the responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and

collect on those claims by pursuing the litigation. The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement. (*Munoz, supra*, 186 Cal.App.4th at p. 408, fn. 6.)

With these standards in mind, the court must determine whether the final settlement agreement is fair, adequate, and reasonable; whether final certification of the class is appropriate; whether the actual class notice procedures appear sound; whether final approval of the appointment of and fees/costs for attorneys and the settlement administrator is appropriate; and whether any class representative enhancement as preliminarily requested is justified.

2. Is the Class Action Settlement Fair, Adequate and Reasonable?

a. Factors Favoring Presumption of Fairness

The court considered these factors in full in connection with the preliminary approval and found these factors favor the presumption of fairness. The court finds they continue to favor the presumption of fairness.

b. Strength of the Case

The most important factor is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement. While the court "must stop short of the detailed and thorough investigation that it would undertake if it were actually trying the case," it must eschew any rubber stamp approval in favor of an independent evaluation. (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 407-408 (*Munoz*).) To perform this balance, the trial court must have "a record which allows 'an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.' " (*Munoz, supra,* at p. 409; see *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 801; *Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 120.) While an express statement of the maximum amount is not required, there must be a record that is sufficiently developed to allow the court to understand the amount in controversy and the realistic ranges of outcomes of the litigation. (See *Munoz, supra*, 186 Cal.App.4th at p. 409.)

The following represents the value of each of the class claims, as reported in the Bae Declaration filed in support of Plaintiff's Motion for Preliminary Approval, paragraphs 25-33.

Claim	**Max. Estimated Exposure**	**Realistic Exposure**
Unpaid Wage Claim	$ 419,998.60	$ 204,749.32
Meal Break Claim	$ 1,259,995.80	$ 377,988.74

Rest Break Claim	$ 1,259,995.80	$ 377,998.74
Waiting Time Penalties	$ 856,800	$ 359,856.00
Wage Statement Claim	$ 700,000	$ 294,000.00
Totals	$4,496,790.20	$ 1,949,902.80

Based on this information, the gross class settlement amount of $731,302.49 represents 16% of the maximum potential exposure and 37.5% of the realistic exposure.

" 'The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved.' [Citation.]" (*7–Eleven Owners for Fair Franchising* (2000) 85 Cal.App.4th 1135,1150.) "The proposed settlement is not to be judged against a hypothetical or speculative measure of what might have been achieved had plaintiffs prevailed at trial." (*Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 246.) Class counsel is experienced and details the inherent risks of any continued litigation and the assessments appear reasonable. (See *Clark, supra*, 175 Cal.App.4th at p. 801.)

3. Preliminary Certification of Class

There has been a sufficient preliminary showing of numerosity, ascertainability, and predominance of commonality. A class action appears the superior way to a fair and efficient adjudication of the lawsuit. Certification of the class seems appropriate.

4. Settlement Administrator Fees and Costs

The court appointed Simpluris to serve as the Settlement Administrator. The details regarding the settlement administration are purportedly set forth in the "concurrently filed Declaration of Lisa Pavlik of Simpluris." (Motion, p. 7, ll. 5-6.) She reports that only three class notices remain undeliverable; no requests for exclusion or objections were received; and no disputes have been received. The Settlement Administrator's cost is $9,000. This is consistent with historical requests and is approved.

5. Class Counsel's Request for Fees and Costs

Counsel asks the court to approve a contingency fee of $243,743.12, which is 33.3% of the total settlement, along with litigation costs of $15,501.02.

Preliminarily, the court notes that CRC 3.769(b) states: "Any agreement, express or implied, that has been entered into with respect to the payment of attorney's fees or the submission of an application for the approval of attorney's fees must be set forth in full in any application for approval of the dismissal or settlement of an action that has been certified as a class action." On September 4, 2025, plaintiff submitted a fee sharing arrangement agreement with Canlas Law Group, which undoubtedly falls within the definition of this rule. However, no fee agreement between Aequitas Legal Group and their client Elias Talamantes has been submitted. (See Bus. & Prof. Code, § 6147 et seq.) Unless this agreement is submitted before the hearing, the matter will be continued.

On the merits, attorney fees are clearly appropriate. (See, e.g., *Graham v. DaimlerChrysler Corp*. (2004) 34 Cal.4th 553, 578 [it is well settled that attorney fees under CCP § 1021.5 may be awarded for class action suits benefiting a large number of people]; see also *Clark, supra*, 175 Cal.App.4th at p. 791.) The court has a duty to review and approve attorney's fees, even where the parties agree on the amount. (*Garabedian v. Los Angeles Cellular Telephone Co*. (2004) 118 Cal.App.4th 123, 127-128.) Use of the percentage method in common fund cases is permissible, although there must be evidence that the parties intended the attorney fees would be paid out of any common fund that had been created. That appears to be the case here. Further, the method is permissible when the amount is certain or easily calculable sum, as it is here. (*Dunk v. Ford Motor Co., supra*, at p. 1809.)

This court generally "double checks" the reasonableness of the fees requested under the lodestar method. (See, e.g., *Lafitte v. Robert Half Internat., Inc*. (2016) 1 Cal.5th 480, 504 [no abuse of discretion in court's decision to double check reasonableness of contingency method by looking to lodestar method for determining attorney's fees].) In reviewing an attorney fee provision in a class action settlement agreement, the trial court has an independent duty to determine the reasonableness of the award. (*Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 128; *Dunk, supra,* 48 Cal.App.4th at p. 1801.) The percentage-of-fund method of calculating attorneys' fees is appropriate under California law. (*Laffitte v. Robert Half Int'l Inc.* (2016)1 Cal. 5th 480, 503–506.) Thus, under California law a court "may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created." (*Id*. at 503.) In *Laffitte,* the California Supreme Court affirmed an attorneys' fee recovery for a wage-and-hour class action of one-third of a $19 million settlement fund and a lodestar cross-check that used a multiplier of between 2.03 and 2.13. (*Id*. at 495, 503–506.)

Here, the attorney Bae reports spending 61.6 hours on this matter at a rate of $975/hour. (Bae Decl., ¶ 40.) He reports that attorney Scharrer spent 122 hours on this matter at a rate of $675/hour, attorney Turner spent 47.8 hours at $500/hour. (Bae Decl., ¶ 40.) The lodestar calculation thus comes out as follows:

Name	Position	Rate	Hours	Lodestar
Ronald H. Bae	Attorney (28th year)	$975/hr.	61.6	$60,060
Olivia D. Scharrer	Attorney (11th year)	$675/hr.	122	$82,350
Carson M. Turner	Attorney (3rd year)	$500/hr.	47.8	$23,900
TOTAL			**231.40**	**$166,310**

The court would have to apply a multiplier of just over1.5, which is comfortably within the *Lafitte* analysis. However, the hourly rates are objectively unreasonable for this locale.[1] At most, the court has awarded a rate of $600/hour in class action proceedings, but given attorney Bae's experience, will allow $650 in this matter. With this adjustment, the lodestar looks like this:

Name	Position	Hourly Rate	Hours	Lodestar
Ronald H. Bae	Attorney (28th year)	$650	61.6	$ 40,040.00
Olivia D. Scharrer	Attorney (11th Year)	$550	122	$ 67,100.00
Carson M. Turner	Attorney (3rd year)	$450	47.8	$ 21,510.00
			231.4	**$128,650.00**

To reach the requested fees of $243,743.12, the court must apply a multiplier of approximately 1.9 which is still comfortably within the range found to be reasonable in *Lafitte*. Attorney Bae further supports the multiplier in his declaration by presenting evidence that representation was skilled, the result was good, counsel's experience was a contributing factor, the work on this case precluded other work, and counsel assumed the risk of a delayed recovery.

The Bae declaration otherwise adequately describes the time spent. Costs have also been adequately supported. The court finds fees and costs requested are reasonable.

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[1] "The *Laffey* Matrix is a United States Department of Justice billing matrix that provides billing rates for attorneys at various experience levels in the Washington, D.C., area and can be adjusted to establish comparable billing rates in other areas using data from the United States Bureau of Labor Statistics." (*Pasternack v. McCullough* (2021) 65 Cal.App.5th 1050, 1057, fn. 5.) The court is not required to follow the *Laffey* Matrix, nor is it required to adopt the rate defense counsel opined was the "market rate' for service of this type. (*Syers Properties III, Inc. v. Tankin* (2014) 226 Cal.App.4th 691, 702.) Instead, a court "may rely on its own knowledge and familiarity with the legal market in setting a reasonable hourly rate." (*Heritage Pacific Financial, LLC v. Monroy* (2013) 215 Cal.App.4th 972, 1009.)

6. Enhancement for Class Representative

Class counsel asks for an enhancement for plaintiff of $10,000. It is established that a named plaintiff is eligible for reasonable incentive payments to compensate him or her for the expense or risk they have incurred in conferring benefit on other members of the class. (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Relevant factors include actions the plaintiff has taken to protect the interests of the class, the degree to which the class had benefited from those actions, the amount of time and effort the plaintiff has expended, the risk to the class representative of commencing suit, the notoriety and personal difficulties encountered by the class representative, the duration of the litigation, and the personal benefit enjoyed by the class representative. (*Clark, supra*, 175 Cal.App.4th at p. 804.) The rationale in the end is to compensate class representatives for the expense or risk they have incurred in conferring a benefit on other members of the class. (*Id*. at p. 806.)

In *Clark*, the court considered a class action case that involved a 2 million settlement with an average recovery for class members of just over $550, with requests by each plaintiff for $25,000 enhancement, which amounted to a multiplier of slightly over 45 times the average payout for each named plaintiff. (*Clark, supra*, at p. 805.) In that context, the *Clark* court made the following observations: "We simply cannot sanction, as within the trial court's discretion, incentive awards totaling $50,000, with nothing more than pro forma claims as to "countless hours' expended, 'potential stigma' and 'potential risk.' Significantly, more specificity, in the form of quantification of time and effort expended on the litigation, and in form of reasoned explanation of financial or other risks incurred by the named plaintiffs, is required in order for the trial court to conclude that enhancement was 'necessary to induce [the named plaintiff] to participate in the suit . . . .' [Citation]." (*Clark, supra*, at pp. 806-807, emphasis added.)

Plaintiff has submitted a declaration in support of the request. He listed the tasks he performed as class representative (Talamantes Decl., ¶ 6) and states that he has "spent hours" communicating with his lawyers (Talamantes Decl., ¶ 7) and reviewing documents (Talamantes Decl., ¶ 8). He states he spent 35-40 hours working on this lawsuit. (Talamantes Decl., ¶ 8.) Plaintiff also emphasizes that he "took a significant risk in suing my former employer because putting my name on a lawsuit like this could make it harder for me to get a job in the future." (Talamantes Decl. at ¶ 12.) Moreover, he "took on the risk of having to pay Pacific Petroleum's legal costs if I lost this lawsuit. I understand that this is a significant risk because it could have been thousands of dollars, or more, depending on how long the case lasted and how hard it was fought." (Talamantes Decl. at ¶ 15.)

The factual recitations of services provided are somewhat generic. While there is undoubtedly concern about this lawsuit's impact on future employment, the complaint alleges that plaintiff has not worked for defendant since October 12, 2022, and plaintiff does not indicate that his participation in this lawsuit in fact prohibited him from finding another job. Moreover, assuming he spent as many as 40 hours on the matter, this works out to be $250/hour. Finally, the average payout here is $1,133.76, which means plaintiff's requested enhancement is just over 7 times the payout for the best-positioned class members. This arguably exceeds the boundaries of reasonableness.

Counsel should be prepared to address this issue at the hearing.

7. General Standards for PAGA Settlement

The PAGA settlement has not been separately addressed in the motion. As there is no requirement for a bifurcated review of the PAGA settlement, the court and the parties may presumably rely on the court's previous finding "the proposed settlement of the PAGA claims to be fair, reasonable and adequate and appropriate for approval pursuant to California Labor Code section 2699(1)(2) and, therefore, approves the same." (Order Granting Preliminary Approval of Class Action and PAGA Settlement, ¶ 4.)

As there is no briefing in support of the request and no requirement for bifurcated review of the issue, the court will not make any further findings. Instead, the first sentence of paragraph 12 of the Proposed Order must be modified to state: "As the court previously found, the proposed settlement of the PAGA claims to be fair, reasonable and adequate and appropriate for approval pursuant to California Labor Code section 2699(l)(2) and, therefore, approves the same. (Order Granting Preliminary Approval of Class Action and PAGA Settlement, ¶ 4.)" The remainder of paragraph 12 may remain the same.

Tentative Ruling

Attorney Bae is directed to appear at the hearing to address whether the enhancement for the representative is reasonable.

In addition, the following must be submitted prior to the hearing:

- Fee agreement between Aequitas Legal Group and their client Elias Talamantes has been submitted. (See Calif. Rules of Court, rule 3.769(b): "Any agreement, express or implied, that has been entered into with respect to the payment of attorney's fees or the submission of an application for the approval of attorney's fees must be set forth in full in any application for approval of the dismissal or settlement of an action

that has been certified as a class action;" see also Bus. & Prof. Code, § 6147 et seq.)

- An amended proposed order that is modified as directed in this tentative.