1. KAAI v. EMERALD CASCADE RESTAURANT SYSTEMS INC., 23CV1995

Motion for Final Approval of Class Actions Settlement

Pending is plaintiff Branden Kaai's ("plaintiff") unopposed motion for final approval of class action settlement.

1. Background

This is a wage-and-hour class action case that includes a claim under the Private Attorneys General Act ("PAGA"), Labor Code section 2698, et seq.

Defendant Emerald Cascade Restaurant Systems Inc. ("defendant") operates restaurants based in California. Plaintiff worked for defendant as an hourly, non-exempt employee from approximately April 2, 2019, through August 28, 2023.

During a private mediation with Kelly A. Knight, the parties agreed to a gross settlement amount of $125,000.00. Prior to mediation, defendant produced a sampling of records from 25 percent of randomly selected employees.

On June 27, 2025, the court preliminarily approved the settlement and conditionally certified the following class for settlement purposes: all individuals who are or were employed by defendant as non-exempt employees in California during the Class Period, defined as the period from November 15, 2019, through January 31, 2025.

2. Legal Principles

"Before final approval, the court must conduct an inquiry into the fairness of the proposed settlement." (Cal. Rules Ct., R. 3.769, subd. (g).) The trial court has "broad discretion to determine whether the settlement is fair." (*Dunk v. Ford Motor* Co. (1996) 48 Cal.App.4th 1794, 1801.) It should consider factors such as 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 the stage of the proceedings; the experience and views of counsel; the presence of a governmental participant; and the reaction of the class members to the proposed settlement. (*Nordstrom Com. Cases* (2010) 186

Cal.App.4th 576, 581; *Dunk*, *supra*, at p. 1801.) But the "list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case. [Citation.]" (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245.) In sum, the trial court must determine that the settlement was not the product of fraud, overreaching or collusion, and that the settlement is fair, reasonable and adequate to all concerned. (*Nordstrom*, *supra*, at p. 581.)

The burden is on the proponent of a class action settlement to show that it is fair and reasonable, but there is a presumption of fairness when: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the trial court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*Carter v. Los Angeles* (2014) 224 Cal.App.4th 808, 820.)

3. Discussion

3.1. Settlement Class Certification

The court previously granted the motion for preliminary approval and conditionally certified the proposed settlement class, defined as: "all individuals who are or were employed by Defendant as non-exempt employees in California during the period from November 15, 2019, through January 31, 2025 ('the Class Period')."

The court finds no significant events have occurred that would cause it to change its prior determination that the settlement class met all requirements under Code of Civil Procedure section 382 for certification for settlement purposes at the time it granted plaintiff's motion for preliminary approval. Therefore, the court confirms its conditional certification of the settlement class.

3.2. Settlement Notice to the Proposed Settlement Class

Before a judge may grant final approval of the settlement of a class action, the judge must review the settlement notice to class members for compliance with due process. *(Martorana v. Marlin & Saltzman* (2009) 175 Cal.App.4th 685, 694.) " 'The principal

purpose of notice to the class is the protection of the integrity of the class action process….' " (*Cho v. Seagate Technology Holdings, Inc.* (2009) 177 Cal.App.4th 734, 745.) "The notice ' "must fairly apprise the class members of the terms of the proposed compromise and of the options open to the dissenting class members." ' " (*Id.*, at p. 746.)

The settlement administrator declares that the notice this court approved at the preliminary approval hearing was sent to all 263 settlement class members on August 6, 2025, in both English and Spanish. (Tevanan Decl., ¶ 5.) As of November 20, 2025 (the date of the settlement administrator's declaration), 16 Class Notices remain undeliverable; and zero requests for exclusion, notices of objection, or notices of workweek disputes from settlement class members have been received. (Tevanan Decl., ¶¶ 7–9.)

The settlement notice that the court approved to be sent to the settlement class indicates that litigation costs would not exceed $15,000.00. But now, plaintiff claims that number was incorrect because it failed to account for a $7,380.00 expert fee. In the instant motion, plaintiff seeks final approval of litigation costs in the amount of $19,606.59.

The court is not inclined to grant final approval of $19,606.59 in litigation costs where the settlement notice stated litigation costs would not exceed $15,000.00. At the hearing, the court will ask plaintiff whether he wishes to cap the litigation costs at $15,000.00 or issue a new settlement notice to the settlement class with the updated amount of litigation costs.

3.3. Fairness Determination

Before final approval, the judge must conduct an inquiry into the fairness of the proposed settlement. (Cal. Rules of Ct., R. 3.769, subd. (g).) A judge may only approve a settlement of a class action that is fair, adequate, and reasonable. (*Roos v. Honeywell Int'l, Inc.* (2015) 241 Cal.App.4th 1472, 1482.)

In this case, the court finds that the presumption of fairness applies because the parties reached the settlement through arm's-length negotiation at mediation; the informal investigation and discovery conducted by the parties are sufficient to allow counsel and the court to act intelligently; counsel is experienced in similar litigation; and there are zero objectors. (*Reed*, *supra*, 208 Cal.App.4th 322.) The court finds that the proposed settlement is fair and reasonable, and not the product of fraud or collusion. (*Wershba*, *supra*, 91 Cal.App.4th at p. 240.)

3.4. Attorney Fees and Costs

Plaintiff's counsel seeks a total award of $61,273.26, which is comprised of $41,666.67 in attorney fees (representing one-third of the gross settlement) and $19,606.59 in litigation costs. Plaintiff indicates that, in his motion for preliminary approval, wherein he estimated costs would not exceed $15,000, he failed to include the $7,380.00 expert fee due to an accounting error.

The California Supreme Court in *Lafitte v. Robert Half Intern, Inc.* (2016) 1 Cal.5th 480, held that a court has discretion to grant attorney fees in class actions based on a percentage of the total recovery. (*Id.*, at pp. 503–504.) However, the trial court may also use a lodestar calculation to double check the reasonableness of the fee award. (*Id.*, at pp. 504–506.)

In this case, counsel's request for an award of attorney fees equal to one-third of the gross settlement appears to be reasonable, especially in light of counsel's experience and the considerable work involved in litigating the case, the risks and potential value of claims, as well as the results achieved for the class. Counsel's declaration provides a summary of the legal work performed in this case. (Melmed Decl., ¶ 16.)

With respect to costs, as previously stated, the court is not inclined to grant final approval of $19,606.59 where the settlement notice informed the settlement class that litigation costs would not exceed $15,000.00. At the hearing, the court will ask plaintiff

whether he wishes to cap the litigation costs at $15,000.00 or issue a new settlement notice to the settlement class with the updated amount of litigation costs.

3.5. Payment to Class Representative

Plaintiff seeks court approval of a $10,000.00 service payment to himself as the named class representative. While the court intends to award a service payment to the class representative, at the hearing, the court will ask plaintiff to provide additional oral argument justifying the requested amount in this case.

3.6. Payment to Class Administrator

Plaintiff also requests court approval of a $8,950.00 payment to Phoenix Settlement Administrator's for the costs of administering the settlement. The administrative cost payment appears to be reasonable given the amount of work to be performed in sending out class notices, tracking down missing class members, handling questions from class members and parties, sending out payments to class members, and providing declarations in support of the motions for class settlement approval. Therefore, plaintiff has shown that the payment of $8,950.00 to the class administrator is reasonable and the court will approve the payment.

3.7. Payment to LWDA under PAGA

The instant motion seeks court approval of a $9,375.00 payment to the LWDA for settlement of civil penalties under PAGA, Labor Code section 2698, et seq. Under PAGA, a plaintiff seeks civil penalties that would otherwise be recoverable by the LWDA. (*Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348, 382.) Any monetary penalties assessed against the defendant are split between the LWDA and aggrieved employees, with 75 percent going to the LWDA and 25 percent going to the aggrieved employees.[1] (Lab. Code, § 2699, subd. (v)(1).)

[1] The law has recently changed such that, for PAGA notices filed on or after June 19, 2024, 65 percent of the recovered penalties go to the LWDA and 35 percent to the aggrieved employees. (Lab. Code, § 2699, subd. (m).) For PAGA notices filed before June 19, 2024, 75 percent of the recovered penalties go to the LWDA and 25 percent to

As noted in this court's tentative ruling issued June 26, 2025 (prior to the hearing on plaintiff's motion for preliminary approval of class settlement), it appears plaintiff has not accounted for the 25 percent of penalties to be paid to the settlement class members who worked during the PAGA period (November 15, 2022, through January 31, 2025). Based on plaintiff's representation of the $9,350.00 payment to the LWDA, the court calculates the total PAGA penalties as $12,500.00. 25 percent of $12,500, which should go to the aggrieved employees, is $3,125.00. The court notes that the settlement notice to the settlement class correctly stated that the total amount of PAGA penalties is $12,500.00.

At the hearing, the court will ask plaintiff to clarify the proposed distribution breakdown (see Mtn. at 2:1–6) in light of the additional $3,125.00 PAGA penalties to be paid to the aggrieved employees.

TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, DECEMBER 19, 2025, IN DEPARTMENT FOUR TO ADDRESS THE ISSUES OUTLINED HEREIN.

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the aggrieved employees. (Lab. Code, § 2699, subd. (v)(1).) In this case, the PAGA notice was filed in 2023.

2. CROW, ET AL. v. CHILD, ET AL., 24CV1535

Motion for Sanctions

This is a medical malpractice action. Plaintiff John Crow alleges all defendants negligently provided medical care to him; and his wife, plaintiff Janet Crow,[2] brings a claim for loss of consortium.

On October 3, 2025, defendant SpecialtyCare ("defendant") filed the instant motion for terminating and/or monetary sanctions under Code of Civil Procedure section 2023.010, et seq. based on both plaintiffs' alleged failure to respond to defendant's discovery and willful refusal to comply with this court's orders issued on April 1, 2025, and July 30, 2025, respectively. Defendant seeks dismissal of the entire action and monetary sanctions in the amount of $1,985.00.

Proof of service filed October 3, 2025, shows the motion was electronically served on all parties. Plaintiffs, who are represented by counsel, filed no opposition.

"[T]he court, after notice to any affected party, person, or attorney, and after opportunity for hearing, may impose the following sanctions against anyone engaging in conduct that is a misuse of the discovery process: [¶] (a) The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct. … [¶] (d) The court may impose a terminating sanction by one of the following orders: [¶] (1) An order striking out the pleadings or parts of the pleadings of any party engaging in the misuse of the discovery process. … (3) An order dismissing the action, or any part of the action, of that party." (Code Civ. Proc., § 2023.030, subd. (d)(1), (3).)

Here, both plaintiffs failed to respond to defendant's written discovery requests propounded on November 26, 2024, which included Form Interrogatories, Special

[2] For clarity, the court will refer to each plaintiff by their first name only. The court intends no disrespect.

Interrogatories, and Request for Production, all Set One. Defendant filed a motion to compel both plaintiffs' verified responses, which the court granted on March 24, 2025. Said order required both plaintiffs to serve verified responses to the outstanding discovery requests within 30 days after service of the notice of entry of order. Defendant electronically served the order upon plaintiffs on April 1, 2025. Accordingly, the deadline to comply with the March 24, 2025, order was May 5, 2025 (30 days, extended by two court days for electronic service of the notice of entry of order). (Code Civ. Proc., § 1013, subd. (e).)

On May 22, 2025, defendant filed its first motion for terminating and/or monetary sanctions against John only based on his alleged failure to serve verified responses to defendant's Special Interrogatories and Request for Production, as ordered by the court on March 24, 2025. On July 11, 2025, the court granted defendant's motion in part and denied the motion in part. The court re-ordered John to serve verified responses to defendant's Special Interrogatories and Request for Production, and pay defendant a monetary sanction of $1,160.00 within 30 days of the date of service of the notice of entry of order.

Defendant electronically served the July 11, 2025, order upon plaintiffs on July 31, 2025. Accordingly, John's deadline to comply with the July 11, 2025, order was September 4, 2025 (30 days, extended by two court days for electronic service of the notice of entry of order). (Code Civ. Proc., § 1013, subd. (e).)

Defendant alleges that, to date, John has still failed to serve verified responses to defendant's Special Interrogatories and Request for Production, and has failed to pay the monetary sanction of $1,160.00.

Based on John's repeated abuses of the discovery process, the court concludes that terminating sanctions are proper as to him only, as lesser sanctions would be ineffective in motivating him to comply with his discovery obligations. (See *J.W. v. Watchtower Bible & Tract Soc'y of New York, Inc.* (2018) 29 Cal.App.5th 1141, 1171.) Pursuant to

Code of Civil Procedure section 2023.030, subdivision (d)(1) the court strikes from the complaint all of John's allegations against defendant. The court dismisses John's action against defendant only with prejudice.

Additionally, the court imposes a separate monetary sanction against John only, payable to defendant, in the amount of $885.00, representing three hours of legal work at $275.00 per hour, plus the $60.00 filing fee for the instant motion.

It is the court's understanding that Janet complied with the court's March 24, 2025, order. Defendant appears to argue that Janet's loss of consortium claim must be dismissed if John's medical malpractice claim is no longer pending because loss of consortium is a "derivative" claim. Defendant provides no legal authority for the court's ability to dismiss Janet's claim based on John's misuses of the discovery process.

In fact, "loss of consortium is not a derivative cause of action. While the cause of action is triggered by the spouse's injury, 'a loss of consortium claim is separate and distinct…. [Citations.]' [Citation.]" (*Rosencrans v. Dover Images, Ltd.* (2011) 192 Cal.App.4th 1072, 1089.) "[T]he injury incurred can neither be said to have been 'parasitic' upon the husband's cause of action nor can it be properly characterized as an injury to the marital unit as a whole. Rather, it is comprised of [the spouse's] own physical, psychological and emotional pain and anguish which results when [the injured spouse] is negligently injured to the extent that he [or she] is no longer capable of providing the love, affection, companionship, comfort or sexual relations concomitant with a normal married life. [Citation.]" (*Lantis v. Condon* (1979) 95 Cal.App.3d 152, 157.) While joinder of a loss of consortium claim with the injured spouse's personal injury claim is encouraged, it is not mandatory and a loss of consortium claim may be maintained independently. (*Rodriguez v. Bethlehem Steel Corp.* (1974) 12 Cal.3d 382, 406–407; *Evans v. Dayton Hudson Corp.* (1991) 234 Cal.App.3d 49, 54–55.)

Based on the above, the court denies defendant's motion for terminating and monetary sanctions with respect to Janet.

TENTATIVE RULING # 2: DEFENDANT SPECIALTYCARE'S MOTION FOR TERMINATING AND/OR MONETARY SANCTIONS IS GRANTED IN PART AND DENIED IN PART. WITH RESPECT TO PLAINTIFF JOHN CROW, THE MOTION IS GRANTED IN PART. THE COURT HEREBY STRIKES PLAINTIFF JOHN CROW'S ALLEGATIONS IN THE COMPLAINT DIRECTED TO DEFENDANT SPECIALTYCARE AND DISMISSES PLAINTIFF JOHN CROW'S COMPLAINT AGAINST DEFENDANT SPECIALTYCARE ONLY WITH PREJUDICE. ADDITIONALLY, PLAINTIFF JOHN CROW IS ORDERED TO PAY DEFENDANT SPECIALTYCARE A TOTAL MONETARY SANCTION OF $2,045.00 (COMPRISED OF THE $1,160.00 SANCTION IMPOSED ON JULY 11, 2025, AND THE $885.00 SANCTION BEING IMPOSED HEREIN) WITHIN 30 DAYS OF NOTICE OF ENTRY OF ORDER. WITH RESPECT TO PLAINTIFF JANET CROW, THE MOTION IS DENIED.

NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

3. MATTER OF LANIER, 25CV2907

OSC Re: Name Change

TENTATIVE RULING # 3: PETITION IS GRANTED.