

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL**

**MINUTE ORDER**

DATE: 09/13/2024

TIME: 9:00 AM

DEPT: C-75

JUDICIAL OFFICER: JAMES MANGIONE

CLERK: Natalie Calantoc

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: M. Palafox

CASE NO: **37-2022-00050243-CU-OE-CTL** CASE INIT.DATE: 12/15/2022

CASE TITLE: **Mercado vs OWB Packers LLC [IMAGED]**

CASE CATEGORY: Civil      CASE TYPE: (U)Other Employment

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**HEARING TYPE:** Motion Hearing

**MOVING PARTY:**

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**APPEARANCES**

Erik Dos Santos, attorney for Maria Mercado, Plaintiff, present via remote video appearance.

Kelli Dreger, attorney for ONE WORLD VENTURES LLC, DBA One World Beef, Defendant, present via remote video appearance.

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The Court hears from counsel and confirms the tentative ruling as follows:

Plaintiff's unopposed Motion for Final Approval of Class Action Settlement is granted, as modified.

Plaintiff's requests for a class enhancement award of \$5,000 and a general release payment of \$12,500 are granted. Additionally, the Court grants Plaintiff's requests for settlement administration costs of \$20,500 and \$19,634.50 for actually incurred litigation costs.

The Court approves the \$100,000 amount to settle Plaintiff's PAGA claims and grants Plaintiff's request to pay \$75,000 to the LWDA.

Finally, for the reasons discussed below, the Court grants a reduced attorney's fees award of \$750,000.

There are two primary methods of determining a reasonable attorney fee in class action litigation: the percentage method and the lodestar method. (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 489.) "The percentage method calculates the fee as a percentage share of a recovered common fund or the monetary value of plaintiffs' recovery. The lodestar method, or more accurately the lodestar-multiplier method, calculates the fee by multiplying the number of hours reasonably expended by counsel by a reasonable hourly rate. Once 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." (*Id.* (quotation marks omitted).) "[T]he lodestar method better

accounts for the amount of work done, while the percentage of the fund method more accurately reflects the results achieved. [Citation.] A lodestar cross-check thus provides a mechanism for bringing an objective measure of the work performed into the calculation of a reasonable attorney fee. If a comparison between the percentage and lodestar calculations produces an imputed multiplier far outside the normal range, indicating that the percentage fee will reward counsel for their services at an extraordinary rate even accounting for the factors customarily used to enhance a lodestar fee, the trial court will have reason to reexamine its choice of a percentage.” (*Id.* at 504.)

Here, Plaintiff requests a fee award of 1,000,000, which equates to one-third of the gross settlement amount. Counsel Erik Dos Santos’s declaration shows that the bulk of the work on this case (269.7 hours) was done by associates with hourly rates of \$800 and \$850 while firm shareholders completed 26.3 hours at hourly rates of \$1,400 and \$1,150. For purposes of the instant motion, the Court finds these hourly rates reasonable. Consequently, Counsel’s lodestar is \$263,075. As such, Counsel’s requested fee of \$1,000,000 represents a positive 3.8 multiplier.

Plaintiff argues that the \$1,000,000 fee award is justified by the contingent nature of the case, Counsel’s experience, the positive settlement outcome (58% of the maximum realistic damages amount) resulting in an average class member recovery of \$1,194.73, the complexity of the work done by Counsel and the limitation this case placed on Counsel’s ability to accept other cases. The Court agrees that these factors justify a positive multiplier. However, the complexity of the issues in the case and the number of hours worked is typical of this type of litigation. As such, a multiplier of 3.8 is unreasonably high.

Having determined that a one-third percentage recovery is excessive, the Court must now “reexamine its choice of a percentage.” (*Laffitte*, 1 Cal.5th at 504.) The Court finds that 25% of the gross settlement amount is appropriate in light of the above factors. This results in a fee award of \$750,000, representing a positive multiplier of 2.85. The Court finds this amount reasonable under both the percentage method and the lodestar method.

Based on the request of Counsel, a status conference is set for February 21, 2025, at 9:45 a.m.

The Court signs the modified proposed order.

*James Mangione*

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Judge James Mangione