

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 17-1422 JVS (DFMx) Date July 22, 2020

Title Manuel Vigueras v. Red Robin International, Inc et al

Present: The **James V. Selna, U.S. District Court Judge**
Honorable

Lisa Bredahl

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: [IN CHAMBERS] Order Regarding Motion for Preliminary Approval of Class Action Settlement

Plaintiffs Manuel Vigueras (“Vigueras”) and Genny Vasquez (“Vasquez”) (together – “Plaintiffs”) moved for preliminary approval of a class action settlement. Mot., Dkt. No. 174. Defendant Red Robin International, Inc. (“Red Robin”) does not oppose the motion.

For the following reasons, the Court **GRANTS** Plaintiffs’ motion for preliminary approval of the proposed settlement, directs dissemination of notice to the Class pursuant to the proposed notice plan, and appoints ILYM Group, Inc. as the Settlement Administrator for the dissemination of notice.

I. BACKGROUND

A. Allegations and Procedural History

The facts of this case are familiar to the Court and parties. The Court references, throughout this Order, facts more thoroughly set out in its October 23, 2018 Order Regarding Vigueras’ Motion for Class Certification (Dkt. No. 48) and August 19, 2019 Order Regarding the Cross-Motions for Summary Judgment (Dkt. No. 103).

On July 14, 2017, Vigueras filed a putative class action lawsuit in the Superior Court for the County of Orange against Red Robin alleging various wage and hour, meal and rest break, and related employment claims. Docket No. 1-1. Red Robin removed the lawsuit to this Court, and Vigueras subsequently filed the operative First Amended Complaint (“FAC”). Dkt. Nos. 1, 13 (“Vigueras I”). In the FAC, Vigueras alleges the

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same causes of action as the original complaint, both individually and on behalf of a putative class of “all hourly, non-exempt employees who were employed by, or were formerly employed by, Red Robin . . . , in positions in [its] restaurants within the State of California at any time during the four years prior to the filing of the original complaint in this action to the date of judgment.” FAC, Dkt. No. 13 ¶ 14.

Plaintiffs complied with the notice requirements under Labor Code § 2699.3 and provided written notice via online filing and certified mail of the specific provisions alleged to have been violated to the Labor and Workforce Development Agency (“LWDA”) and Red Robin. Declaration of Christina M. Lucio (“Lucio Decl.”), Dkt. No. 174-2 ¶ 11. After 65 days passed without notification from the LWDA of its intent to investigate the alleged claims, Vigueras filed Vigeras, et al. v. Red Robin International Inc., Case No. 30-2017- 00945592-CU-OE-CXC (“Vigueras II”) in the Superior Court of the State of California for the County of Orange on September 21, 2017. Id. The only claim asserted in the Vigueras II action is a Private Attorneys General Act “(PAGA)” claim asserted on behalf of “all other aggrieved employees employed by Red Robin in California as non-exempt employees paid in whole or in part on a commission basis.” Id. On February 13, 2018, Plaintiffs filed a First Amended Complaint to add Vasquez as a Plaintiff. Id.

On October 23, 2018, the Court issued an order certifying the following class:

All persons who are employed or have been employed by [Red Robin] as non-exempt, hourly employees, however titled, in [Red Robin’s] restaurants in the state of California from July 14, 2013 to the present.

Dkt. No. 48 at 6, 20. The Court also certified the following subclasses:

1. First Meal Period Subclass: All Class Members who worked more than five (5) hours in a workday, and were not provided with a lawful, timely uninterrupted thirty (30) minute meal period or compensation in lieu thereof.
2. Second Meal Period Subclass: All Class Members who worked more than ten (10) hours in a workday, and were not provided with a lawful, timely uninterrupted thirty (30) minute meal period or compensation in lieu thereof.

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3. Rest Period Subclass: All Class Members who worked more than three and one-half (3 ½) hours in a workday and were not authorized or permitted to take one net ten (10) minute rest period for every four hours worked or major fraction thereof, or compensation in lieu thereof.
4. Indemnification Subclass: All Class Members who were not reimbursed for necessary expenditures incurred to perform their job duties.
5. Unfair Business Practices Subclass: All Class Members who (1) were subject to unlawful, illegal, unfair or deceptive business acts or practices by Defendant and, (2) are entitled to restitution for unpaid wages, unpaid meal or rest premiums or unreimbursed expenses from Defendant based on conduct occurring at any time from July 14, 2013 to the present.

Id. at 6-7.

On February 21, 2019, the Court granted in part and denied in part Red Robin's motion to decertify a subclass of individuals who signed pre-dispute arbitration agreements prior to the filing of the lawsuit. See Order, Dkt. No. 73. On August 19, 2019, the Court granted in part and denied in part Red Robin's motion for summary judgment and denied Vigueras' motion for partial summary judgment. See Order, Dkt. No. 103.

On February 25, 2020, Plaintiffs and Red Robin began a jury trial in this Court. Lucio Decl. ¶ 17. The Court impaneled a jury and the Parties gave their opening statements. Plaintiff was called to testify and Defendant cross-examined Plaintiff. On February 28, 2020, the Parties reached a global settlement of the claims in Vigueras I and Vigueras II for \$8,500,000.00. The parties informed the Court that they would present a long-form Settlement Agreement to the Court for approval.

In conjunction with the Settlement Agreement, the parties stipulated to file a Consolidated Amended Complaint to combine the allegations, violations, and causes of action in the Vigueras I and Vigueras II. Lucio Decl. ¶ 18; Settlement Agreement, Ex. A.

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B. Summary of the Settlement

1. The Settlement Class

The Settlement Class is defined as:

[A]ll persons who were employed by Red Robin International, Inc. as non-exempt, hourly employees at Red Robin's restaurants in California from July 14, 2013 to October 23, 2018 and who were not excluded as part of Defendant's motion to decertify the class based upon predispute arbitration agreements signed before July 14, 2017.

Lucio Decl., Ex. 1 (Settlement Agreement) ("SA") ¶ 7. There are approximately 16,790 Class Members. Id. The Class Period is from July 14, 2013 to October 23, 2018. Id. ¶ 8.

Additionally, the PAGA Group includes:

All persons who were employed by Red Robin International, Inc. as non-exempt, hourly employees at Red Robin's restaurants in California from September 21, 2016 to July 15, 2020.

Id. ¶ 21. There are approximately 14,500 PAGA Group Members as of April 30, 2020. Id. PAGA Group Members who worked during the Class Period may also be Class Members. Id. The PAGA Period is from September 21, 2016 to July 15, 2020. Id. ¶ 23.

2. Settlement Amount and Injunctive Relief

The Gross Settlement Amount ("GSA") is \$8,500,000. Id. ¶ 13. No part of the GSA may revert to Red Robin.

The GSA includes (a) Participating Class Members' Individual Settlement Payments; (b) Class Counsel's attorneys' fees of up to \$2,833,050.00 (33.33% of GSA) to compensate Class Counsel for all work performed and all work remaining to be performed in finalizing and administering the Settlement and securing final Court approval; (c) Class Counsel's actual litigation costs and expenses not to exceed \$375,000; (d) Class Representative Enhancement payments of \$37,500 to Vigueras and \$17,500 to

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Vasquez, in consideration of their initiation and prosecution of the Actions, serving as Class Representatives, work performed, risks undertaken for the payment of costs in the event the cases had not successfully concluded, the substantial benefits conferred on the Settlement Class, and a general release of all claims; (e) PAGA Penalty Payment of \$250,000 attributable to Plaintiffs' claims pursuant to PAGA; and (f) Settlement Administrator expenses to ILYM Group, Inc. of up to \$135,000.00 to provide notice of the settlement and distribute settlement payments to the Settlement Class.

After all Court-approved deductions, the remaining Net Settlement Amount ("NSA") is estimated to be \$4,851,950 will be distributed to all Participating Class Members (i.e. Class Members who do not exclude themselves or "opt-out" of the Settlement) based proportionately on the number of weeks worked and the number of shifts worked over five hours for Red Robin during the class period in relation to all Participating Class Members. Lucio Decl. ¶ 25.

All participating Class Members will receive their individual share of the Net Settlement Amount automatically, without having to submit a claim form. SA ¶¶ 14, 52. Calculations of individual settlement amounts will be made according to a point system. Id.

The Parties have agreed to allocate \$250,000 from the GSA to settle all claims under PAGA, of which 75% will be paid to the Labor and Workforce Development Agency (LWDA) and 25% will be paid to the PAGA Group Members pursuant to the Settlement Agreement. Lucio Decl. ¶ 26; SA ¶ 22. all PAGA Group Members will be mailed a payment for his or her proportionate share of the PAGA Penalty Payment, without the need to submit a claim form. Lucio Decl. ¶ 27; SA ¶ 52.

3. Attorneys' Fees and Costs

Class Counsel will request attorneys' fees not to exceed \$2,833,050. SA ¶¶ 5, 47. They also will request litigation costs and expenses not to exceed \$375,000. Id.

4. Administrative Expenses and Service Awards

Red Robin will not oppose Plaintiffs' application for a payment of \$37,500 to Vigueras and \$17,500 to Vasquez. SA ¶¶ 9, 48.

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ILYM Group, Inc., the Settlement Administrator selected by the Parties to administer the Settlement, will conduct a search of the National Change of Address database to update Settlement Class Member addresses, and will thereafter mail to each Settlement Class Member identified on the Class List a Notice of Settlement of Class and Representative Action Lawsuit (the "Class Notice"). SA ¶ 57.

The Settlement Administrator will be paid for the reasonable fees and costs of administration, which are estimated to be \$130,000. *Id.* ¶ 49. The Settlement Administration expenses will not exceed \$135,000 without prior approval from the parties. *Id.*

5. Release

All Class Members who do not request to be excluded by timely returning a signed statement as described in the Class Notice will release the following claims against the Released Parties:

All applicable wage and hour claims, rights, demands, liabilities, penalties, and causes of action arising from the claims asserted in the Consolidated Amended Complaint or that could have been asserted in Viguera I, Viguera II and/or the Consolidated Amended Complaint to be filed pursuant to this Settlement based on the facts and circumstances alleged therein, including claims based on California Labor Code sections 201, 202, 203, 204, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2698 *et seq.*, 2802, California Code of Regulations, Title 8 Section 11000 *et seq.*, the applicable Industrial Welfare Commission (IWC) Wage Orders, Business & Professions Code section 17200-17208 or any related damages, penalties, restitution, disgorgement, interest or attorneys' fees.

SA ¶ 76.

All PAGA Group Members will release the followings claims against the Released Parties:

All PAGA claims asserted in the Consolidated Amended Complaint or that could have been asserted in Viguera I, Viguera II, and/or the Consolidated Amended Complaint to be filed pursuant to this Settlement based on the facts and circumstances alleged

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therein, including PAGA claims, within the PAGA period, based Labor Code sections 201, 202, 203, 204, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2698 et seq., and 2802. The Released PAGA Claims shall exclude claims for unemployment insurance, disability, and workers' compensation, and claims outside of the PAGA Period. Further, the Released PAGA Claims in this Settlement Agreement shall not release any non-PAGA class claims or release any individual claims other than Plaintiffs' individual released claims.

Id. ¶ 77.

Plaintiffs Vigueras and Vasquez provide an additional, general release of all claims to Red Robin and the Released Parties. Id. ¶ 78.

6. Notice

The Class Notice shall provide (1) information regarding the nature of the Actions, (2) a summary of the Settlement's principal terms, (3) the Class Member and PAGA Group Member definitions, (4) his or her Individual Points as a Class Member and/or Individual Qualifying Workweeks as a PAGA Group Member, (5) each Settlement Class Member's estimated Individual Settlement Payment and/or Individual PAGA Payment and the formula for calculating the Settlement Payments, (6) the dates which comprise the Class and PAGA Group periods, (7) instructions on how to submit valid Requests for Exclusion or objections for Class Members only, (8) the deadlines by which the Class Member must fax or postmark a Request for Exclusion or file and serve objections to the Settlement, and (9) the claims to be released. SA ¶ 48; Ex. B.

7. Opt-Out and Objection Process

Any Class Member wishing to opt-out must sign and send a written Request for Exclusion to the Settlement Administrator within the Response Deadline. Id. ¶ 60.

To object, a Class Member must submit a valid Objection Form with the Settlement Administrator before the Response Deadline. Id. ¶ 65.

8. Revocation of Agreement

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If more than 5% of Class Members opt out, Red Robin may rescind the Settlement. Id. ¶ 63.

II. LEGAL STANDARD

Federal Rule of Civil Procedure Rule 23(e) states that “[t]he claims ... of a certified class—or a class proposed to be certified for purposes of settlement—may be settled . . . or compromised only with the court’s approval.” “The parties must provide the court with information sufficient to enable it to determine whether to give notice of the propos[ed] [settlement] to the class.” Fed. R. Civ. P. 23(e)(1)(A). “The court must direct notice in a reasonable manner to all class members who would be bound by the proposal if giving notice is justified by the parties’ showing that the court will likely be able to: (i) approve the propos[ed] [settlement] under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal.” Id. 23(e)(1)(B)(i)(ii).

III. DISCUSSION

A. Preliminary Approval of the Proposed Class Settlement

1. The Fairness Factors Support Settlement Approval

Under Rule 23(e)(2) if the proposed settlement would bind class members, the Court may approve it only after a hearing and only on finding that it is fair, reasonable and adequate. To make this determination, the Court must consider the following factors:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm’s length;
- (C) the relief provided for the class is adequate, taking into account:
 - (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
 - (iii) the terms of any proposed award of attorneys’ fees, including timing of payment; and
 - (iv) any agreement required to be identified under Rule 23(e)(3); and

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(D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

Before the revisions to the Federal Rule of Civil Procedure 23(e), the Ninth Circuit had developed its own list of factors to be considered. See e.g., In re Bluetooth Headset Products Liab. Litig., 654 F.3d 935, 964 (9th Cir. 2011) (citing Churchill Vill., L.L.C. v. Gen. Elec., 361 F.3d 566, 575 (9th Cir. 2004)). The revised Rule 23 “directs the parties to present [their] settlement to the court in terms of [this new] shorter list of core concerns[.]” Fed. R. Civ. P. 23(e)(2), 2018 Advisory Committee Notes. “The goal of [amended Rule 23(e)] is . . . to focus the [district] court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal.” Id.

a. Adequacy of Representation by Class Representatives and Class Counsel

Under Rule 23(e)(2)(A), the first factor to be considered is whether the class representatives and class counsel have adequately represented the class. This analysis includes “the nature and amount of discovery” undertaken in the litigation. Fed. R. Civ. P. 23(e)(2)(A), 2018 Advisory Committee Notes.

The parties exchanged extensive written discovery, produced a substantial number of documents, engaged in extensive law and motion practice, retained experts, and conducted various depositions. Lucio Decl. ¶¶ 19-20.

Further, Class Counsel have significant experience in litigating minimum wage, overtime, and rest and meal period cases. Id. ¶ 41; Declaration of James Hawkins (“Hawkins Decl.”), Dkt. No. 174-3 ¶¶ 4-6.

Because Plaintiffs and Class Counsel have adequately represented the Class, this factor weighs in favor of preliminary approval.

b. Negotiated at Arm’s Length

The second Rule 23(e)(2) factor asks the Court to confirm that the proposed

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settlement was negotiated at arm's length. Fed. R. Civ. P. 23(e)(2)(B). As with the preceding factor, this can be "described as [a] 'procedural' concern[], looking to the conduct of the litigation and of the negotiations leading up to the proposed settlement." Fed. R. Civ. P. 23(e)(2), 2018 Advisory Committee Notes. "[T]he involvement of a neutral or court-affiliated mediator or facilitator in [settlement] negotiations may bear on whether th[ose] [negotiations] were conducted in a manner that would protect and further the class interests." Fed. R. Civ. P. 23(e), 2018 Advisory Committee Notes; accord Pederson v. Airport Terminal Servs., No. 15-cv-02400, 2018 WL 2138457, at *7 (C.D. Cal. April 5, 2018) (the oversight "of an experienced mediator" reflected noncollusive negotiations).

The Parties attended three full day mediation sessions. Lucio Decl. ¶ 21. The first mediation was with wage and hour mediator Joel Grossman on March 29, 2018 in Los Angeles. Id. The second mediation was with wage and hour mediator David Rotman on March 21, 2019 in San Francisco. Id. In addition, the week before trial, the Parties attended a third full day mediation session with wage and hour mediator Mark Peters in San Francisco. Id. The Parties were unable to reach a settlement at the mediation sessions, however they continued to discuss possible settlement throughout the litigation and during trial. Id.

The Court is confident in the arm's length process the Parties undertook, and that the Settlement is not the production of collusion.

c. Adequacy of Relief Provided for the Class

The third factor the Court considers is whether "the relief provided for the class is adequate, taking in to account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorneys' fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3)." Fed. R. Civ. P. 23(e)(2)(C). Under this factor, the relief "to class members is a central concern." Fed. R. Civ. P. 23(e)(2)(C), Advisory Committee Notes.

i. Costs, Risks, and Delay of Trial and Appeal

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“A[] central concern [when evaluating a proposed class action settlement] . . . relate[s] to the cost and risk involved in pursuing a litigated outcome.” Fed. R. Civ. P. 23(e), 2018 Advisory Committee Notes. In evaluating this factor, the Court “must stop short of the detailed and thorough investigation that it would undertake if it were actually trying the case[.]” Kullar v. Foot Locker Retail, Inc., 168 Cal. App.4th 116, 130 (2008). “In the context of a settlement . . . the test is not the maximum amount plaintiffs might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances.” Wershba v. Apple Computer, Inc., 91 Cal. App.4th 224, 250 (2001).

While Plaintiffs believe in the merits of their case, they recognized the inherent risks and uncertainty of litigation, including (i) the possibility of decertification of all or part the Class at trial; (ii) the need for a unanimous jury; (iii) the possibility of an unfavorable, or less favorable, verdict at trial; (iv) the likely possibility that post-trial motions may result in an unfavorable, or less favorable, result at trial; and/or (v) the possibility of an unfavorable, or less favorable result on appeal. Hawkins Decl. ¶ 7; Lucio Decl. ¶ 37. Class Counsel believe the settlement is fair and reasonable based on the complexities of the case, the state of the law, and the uncertainties inherent in litigation. Lucio Decl. ¶¶ 42-49.

Given the obstacles and inherent risks Plaintiffs face with respect to their claims, the substantial benefits the Settlement Agreement provides favor preliminary approval.

ii. Effectiveness of Proposed Method of Relief Distribution

Next, the Court must consider “the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims.” Fed. R. Civ. P. 23(e)(2)(C). “Often it will be important for the court to scrutinize the method of claims processing to ensure that it facilitates filing legitimate claims.” Fed. R. Civ. P. 23(e), 2018 Advisory Committee Notes. “A claims processing method should deter or defeat unjustified claims, but the court should be alert to whether the claims process is unduly demanding.” Id.

The Settlement Agreement details eligibility for an individual recovery. Notably, Class Members will receive their share of the Net Settlement Amount automatically without having to return a claim form. Lucio Decl. ¶ 25. In addition, all PAGA Group

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Members will be mailed a payment for his or her proportionate share of the PAGA Penalty Payment, without the need to submit a claim form. Id. ¶ 27.

The Court finds that this process is not unduly demanding, and that the proposed method of distributing relief to the Class is effective.

iii. Terms of Proposed Award of Attorneys' Fees

Third, the Court must consider “the terms of any proposed award of attorneys’ fees, including timing of payment.” Fed. R. Civ. P. 23(e)(2)(c).

Class Counsel will file a motion requesting reimbursement of their litigation expenses of up to \$30,000 and an award of attorneys’ fees not to exceed \$2,833,050 (33% of the GSA). Lucio Decl. ¶ 24.

Class Counsel will need to provide the relevant information to justify their entitlement to their requested fee award, including a lode star calculation with evidentiary support, which Class Counsel shall file within 60 days of preliminary approval.

iv. Agreement Identification Requirement

The Court must also evaluate any agreement made in connection with the proposed Settlement. See Fed. R. Civ. P. 23(e)(2)(C)(iv), (e)(3).

Here, the Settlement Agreement before this Court is the only agreement. Thus, the Court need not evaluate any additional agreements outside of the evaluation it makes of the Settlement Agreement.

The Court is satisfied that the form of relief is adequate.

d. Equitable Treatment of Class Members

The final Rule 23(e)(2) factor turns on whether the proposed settlement “treats class members equitably relative to each other.” Fed. R. Civ. P. 23(e)(2)(D). “Matters of concern could include whether the apportionment of relief among class members takes appropriate account of differences among their claims, and whether the scope of the

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release may affect class members in different ways that bear on the apportionment of relief.” Fed. R. Civ. P. 23(e)(2)(D), 2018 Advisory Committee Notes.

Class Counsel seek enhancement awards of \$37,500 for Vigueras and \$17,500 for Vasquez. Lucio Decl. ¶ 52.

It is unclear on the present record what the scope of the Named Plaintiffs’ participation in the action was, and hence, the Court cannot assess the proposed additional payment. See Boyd v. Bank of Am. Corp., 2014 WL 6473804, at *7 (C.D. Cal. Nov. 18, 2014) (citing Staton v. Boeing Co., 327 F.3d 938, 976–77 (9th Cir. 2003)). The Court will only approve the Enhancement Awards if they are supported by adequate proof, including Vigueras and Vasquez’s approximate time spent on the case. The Court requests an estimated individual recovery for Class Members in the motion for final approval; it is unlikely to grant awards of \$37,500 and \$17,500, given that these awards are likely to greatly exceed the average individual recovery.

Class Counsel shall submit a declaration from Plaintiffs Vigueras and Vasquez supporting their enhancement awards, when Class Counsel files the fee motion. Other than the Court’s stated concern regarding the sufficiency of documentation supporting the enhancement awards, which the Court will address in the final settlement approval, the Court is satisfied that all Class Members are treated equitably.

B. Certification of the Settlement Class

The second prerequisite for directing notice of the settlement to the Class is a determination that the Class is likely to meet the requirements for certification for settlement purposes. Fed. R. Civ. P. 23(e)(1)(B)(ii). Certification requires that all four elements of Rule 23(a) and at least one prong under Rule 23(b) be satisfied.

On October 23, 2018, the Court certified the Class, finding that it met the class certification requirements of Rule 23 of the Federal Rules of Civil Procedure. Dkt. No. 48. On February 21, 2019, the Court decertified the Class as to the 2,612 Arbitration Subclass members who signed an arbitration agreement prior to the filing of this action on July 14, 2017. Dkt. No. 73. Thus, the Class defined in the Settlement Agreement is consistent with the Court’s prior certification of the Class and decertification as to those Class Members who signed arbitration agreements prior to the filing of this action.

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C. The Settlement Class Meets the Notice Requirements Under Fed. R. Civ. Pro. 23(c)(2)(B).

Under Rule 23(c)(2)(B), “for any class certified under Rule 23(b)(3)—or upon ordering notice under Rule 23(e)(1) to a class proposed to be certified for purposes of settlement under Rule 23(b)(3)—the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). Rule 23(c)(2)(B) further states that the notice may be made by one of the following: United States mail, electronic means, or another type of appropriate means. *Id.* “The notice must clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3).” *Id.*

The Court finds that the Notice clearly and adequately conveys all relevant information regarding the proposed Settlement as required by Rule 23(c)(2)(B). The Notice concisely states a description of the action and the definition of the certified Class. Lucio Decl., Ex B. It identifies the Class claims, and explains that Class Members may enter an appearance through an attorney if the Member so desires. *Id.* Finally, the Notice states that the Court will exclude from the Class any Member who requests exclusion, the time and manner for requesting exclusion, and the binding effect of a Class judgment on Members under Rule 23(c)(3). *Id.*

IV. CONCLUSION

For the foregoing reasons, the Court **GRANTS** Plaintiffs’ motion certifying the proposed Settlement Class, **GRANTS** preliminary approval of the proposed settlement, directs dissemination of notice to the Class pursuant to the proposed notice plan, and appoints ILYM Group, Inc. as the Settlement Administrator for the dissemination of notice.

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IT IS SO ORDERED.

Initials of Preparer _____ : _____ 0
lmb _____