UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ANTHONY AYALA, individually and on behalf of all those similarly situated, Plaintiffs, vs. U.S. XPRESS ENTERPRISES, INC., U.S. XPRESS, INC., and DOES 1-100, Defendants.	Case No.: EDCV 16-137-GW-KKx **ORDER GRANTING PRELIMINARY APPOVAL OF SETTLEMENT** Date: Apr. 20, 2023 Time: Ctrm.: 9D Before: Hon. George H. Wu Trial:

The Court, having reviewed Plaintiff Anthony Ayala's Motion for Preliminary Approval of Class Settlement Pursuant to Federal Rule of Civil Procedure 23(e) [ECF Doc. 614], and having held a telephonic hearing on April 20, 2023, hereby ADOPTS its Tentative Ruling issued on April 19, 2023 [ECF Doc. 622] as the Court's Final Ruling and GRANTS Plaintiff's Motion.

IT IS HEREBY ORDERED that:

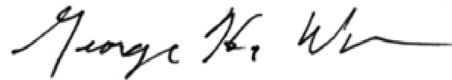
1. The Court GRANTS Plaintiff's Motion for Preliminary Approval of Class Settlement.
2. The following dates are set:
   A. Defendant to provide Class List to the Administrator by **May 8, 2023**;
   B. Administrator to effectuate Notice to Class Members by: **May 22, 2023**;
   C. Plaintiff to file his motion for attorney's fees, costs, and service payment(s) by: **July 7, 2023**;
   D. Deadline for Class Members to opt-out or object to Class Settlement: **July 21, 2023**

E. Plaintiff to file his motion for final approval of the settlement by: **August 18, 2023**;

F. Final Fairness Hearing: **September 14, 2023**, at 8:30 a.m.

IT IS SO ORDERED.

Dated: April 24, 2023



HON. GEORGE H. WU,
United States District Judge

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	EDCV 16-137-GW-KKx	Date	April 19, 2023
Title	*Anthony Ayala v. U.S Xpress Enterprises, Inc., et al.*		

Present: The Honorable	GEORGE H. WU, UNITED STATES DISTRICT JUDGE

Javier Gonzalez	None Present	
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present by Telephone for Plaintiffs:	Attorneys Present for Defendants:
None Present	None Present

PROCEEDINGS: **IN CHAMBERS - TENTATIVE RULING ON PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT PURSUANT TO FRCP 23(e) [614]**

Attached hereto is the Court’s Tentative Ruling on Plaintiff’s Motion [614] set for hearing on April 20, 2023 at 8:30 a.m.

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Initials of Preparer JG

Anthony Ayala v. U.S. Express Enterprises, Inc. et al., Case No. 5:16-cv-00137-GW-(KKx)
Tentative Ruling on Motion for Preliminary Approval of Class Action Settlement and Representative Action Settlement

I. Background

Plaintiff Adam Ayala, on behalf of himself and a putative class of similarly situated individuals, sued Defendants U.S. Xpress Enterprises, Inc. and U.S. Xpress, Inc. for claims related to Defendants' alleged violations of various provisions of California wage-and-hour law. In the Complaint, Plaintiff asserts claims for violations of the California Labor Code and California Industrial Commission Wage Orders, including: (1) failure to provide meal and rest periods in violation of Labor Code §§ 226.7 and 512, and Wage Order 9-2001 §§ 11, 12; (2) failure to compensate for all hours of work performed in violation of Labor Code §§ 2221, 223, and 1194, and Wage Order 9-2001 ¶ 4; and (3) failure to provide itemized pay statements and/or maintain required wage/time records in violation of Labor Code § 226, and Wage Order 9-2201 ¶ 7-B. *See generally* Complaint ("Compl."), ECF No. 1-1. Plaintiff also alleges one claim for unfair competition in violation of California Business & Professions Code § 17200. *Id.*

A. Procedural Background

Plaintiff filed suit in the Superior Court of California, San Bernadino County, on December 23, 2015. *Id.* Defendants removed the action to this Court on the basis of diversity jurisdiction on January 22, 2016. ECF No. 1. Plaintiff filed his First Amended Complaint on April 24, 2017. ECF No. 99. On May 5, 2017, Plaintiff moved for certification of a class consisting of "all truck drivers who have worked in California for US Xpress after the completion of training while residing in California (as reflected by their mailing addresses provided to US Xpress) at any time since four years before the filing of this legal action until such time as there is a final disposition of this lawsuit." ECF No. 102. The Court granted the motion on July 27, 2017.[1] ECF No. 117.

On June 26, 2018, Gabriel Nunez filed a Complaint against Defendants in Los Angeles County Superior Court alleging violations of the same Labor Code asserted in this case, seeking civil penalties under the Private Attorneys General Act ("PAGA"), California Labor Code §§ 2698, *et seq*. *See generally Nunez v. U.S. Xpress Enterprises, Inc.* (Case No. BC711661, Los

[1] In granting the motion for class certification, the Court found, *inter alia*, that the numerosity, commonality, typicality, adequacy of representation and predominance requirements had all been met.

Angeles County Superior Court) ("*Nunez*").

Over the course of this nearly eight-year litigation, the parties have engaged in extensive motion practice – including several motions related to class certification, several rounds of cross-motions for summary judgment, a motion for judgment on the pleadings, a motion to dismiss, and motions *in limine*. *See* ECF No. 615-2 ¶ 4. Plaintiff also filed an interlocutory appeal of one of the Court's summary judgment rulings, which was affirmed. *See* ECF No. 339. Discovery efforts have been considerable. Defendants produced over one billion datapoints, and both sides took dozens of depositions and engaged in discovery-related motion practice. *See* Motion ("Mot."), ECF No. 615, at 1-2. The parties also participated in several previous full-day, unsuccessful mediations. ECF No. 615-2 ¶ 6.

A jury trial commenced on February 8, 2023. Midway through the third day of trial, the parties reached a settlement agreement. *Id.* ¶ 7. With the Court's assistance, the parties outlined the basic components of the settlement, and then the Court excused the jury. *Id.*; *see* ECF No. 611. Now, Plaintiff moves for preliminary approval of the settlement with respect to the Rule 23 class claims and approval of the Notice of Proposed Settlement to Class Members. Defendants do not oppose the Motion.

B. Terms of the Proposed Settlement

The Settlement Agreement defines the Class as: "all current and former California-resident truck drivers who worked in California for Defendants after the completion of training at any time between December 23, 2011 and November 22, 2017." Settlement Agreement, ECF 615-3, § I(5). The Class Period is defined as December 23, 2011 through February 10, 2023. *Id.* § I(9). The Settlement Agreement also provides for the filing of a Second Amended Complaint which contains all of the causes of action of the First Amended Complaint that was filed on April 24, 2017, but also joins the named plaintiff in the *Nunez* action and all of the claims currently pending in that case. *Id.* § I(12).

Defendants have agreed to deposit a non-reversionary gross settlement amount ("GSA") of $4,690,000 into a settlement fund, covering payments to (1) the approximately 1,000 certified Class Members; (2) PAGA penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"); (3) court-approved service awards for the named plaintiff; (4) court-approved attorneys' fees and costs; and (5) the Claims Administrator's fees. Mot. at 3; Settlement Agreement § VIII(1)(c). Class Members will be paid a pro rata share of the Net

Settlement Fund ("NSA") based on the number of workweeks they worked for Defendants as a commercial truck driver during the Class Period. Mot. at 3; Settlement Agreement § VIII(1)(c).

In exchange for the GSA, Class Members – who do not opt out – agree to release wage and hour claims asserted against Defendants in this action and incurred through the Class Period. Mot. at 9. Class Members will also release PAGA claims asserted in the *Nunez* case through the Class Period. *Id.*; Settlement Agreement §§ (I)(4), (35).

The Settlement Agreement provides that Plaintiff Ayala may seek a service award of $10,000.[2] Settlement Agreement § IV(2). Class Counsel will seek no more than one-third of the GSA in attorneys' fees, as well as reasonable out-of-pocket costs and expenses not to exceed $1 million.

The Settlement Agreement provides that a third-party settlement administrator will perform notification services and administer the Settlement. *See* Mot. at 13. The parties have selected Simpluris to be the Claims Administrator, which has estimated its costs to administer the Settlement to be $15,000. *Id.* at 4. The parties recommend Simpluris be paid in accordance with its estimate, but not to exceed $20,000. *Id.*

Within 14 days of the Court's preliminary approval of the Settlement Agreement, Defendants will provide the Claims Administrator and Class Counsel information to identify and notify each individual who is entitled to a Settlement payment. Mot. at 3; Settlement Agreement § VII(2). Notice of the Settlement and fairness hearing will be mailed to each Class Member within 14 days thereafter. Mot. at 3. The mailing will consist of a postcard summarizing the terms of the Settlement, providing an internet address where Class Members can review a long-form notice, providing the number of workweeks for which the Class Member's Settlement payment will be based, and explaining that Class Members may object or opt out of the Settlement. *Id.*; Settlement Agreement Exs. 1, 2. Class Members will have 60 days from the date the Notice is distributed to opt out or object, after which Plaintiff will file a motion for final approval of the Settlement and respond to any objections raised. Mot. at 3; Settlement Agreement § I(25).

II. <u>Legal Standard</u>

Under Ninth Circuit precedent, there is "a strong judicial policy that favors settlements, particularly where complex class action litigation is concerned." *Allen v. Bedolla*, 787 F.3d 1218,

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[2] The Settlement Agreement does not contain any service award provision as to the named plaintiff in the *Nunez* action.

1223 (9th Cir. 2015) (internal quotation marks omitted). Nonetheless, Federal Rule of Civil Procedure 23(e) requires district courts to approve class action settlements. "[S]ettlement class actions present unique due process concerns for absent class members[.]" *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998), *overruled on other grounds by Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011); *see Allen*, 787 F.3d at 1223 ("[T]he district court has a fiduciary duty to look after the interests of those absent class members."); *see also Briseno v. Henderson*, 998 F.3d 1014, 1022 (9th Cir. 2021) (district courts are held to a higher procedural standard when making [a] determination of substantive fairness" in the context of an approval of a class action settlement).

Federal Rule of Civil Procedure 23(e)(2) requires that a court find any proposed settlement "fair, reasonable, and adequate" before approval. Rule 23(e)(2) provides:

> *Approval of the Proposal.* If the proposal would bind class members, the court may approve it only after a hearing and only on finding that it is fair, reasonable, and adequate after considering whether:
> (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 attorney's fees, including timing of payment; and
> (iv) any agreement required to be identified under Rule 23(e)(3); and
> (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2). The Ninth Circuit has also noted various factors for courts to generally consider in deciding whether a class action settlement is fair, adequate, and reasonable:

> (1) the strength of the plaintiff's case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members of the proposed settlement.

In re Bluetooth Headset Prod. Liab. Litig., 654 F.3d 935, 946 (9th Cir. 2011) (citation omitted). In addition, the Ninth Circuit instructs district courts to examine potential red flags indicating collusion. "Collusion may not always be evident on the face of a settlement, and courts therefore must be particularly vigilant not only for explicit collusion, but also for more subtle signs that class counsel have allowed pursuit of their own self-interests and that of certain class members to infect the negotiations." *In re Bluetooth*, 654 F.3d at 947. Subtle signs of collusion include:

> (1) when counsel receive a disproportionate distribution of the settlement, or when the class receives no monetary distribution but class counsel are amply rewarded;
>
> (2) when the parties negotiate a "clear sailing" arrangement providing for the payment of attorneys' fees separate and apart from class funds, which carries "the potential of enabling a defendant to pay class counsel excessive fees and costs in exchange for counsel accepting an unfair settlement on behalf of the class;" and
>
> (3) when the parties arrange for fees not awarded to revert to defendants rather than be added to the class fund.

Id. (internal quotation marks and citations omitted).

"[T]he preliminary approval stage [i]s an 'initial evaluation' of the fairness of the proposed settlement made by the court on the basis of written submissions and informal presentation from the settling parties." *In re High-Tech Emp. Antitrust Litig.*, No. 11-CV-2509-LHK, 2013 WL 6328811, at *1 (N.D. Cal. Oct. 30, 2013). A court need not conduct a complete analysis of the fairness factors at this time because "some of these 'fairness' factors cannot be fully assessed until the Court conducts the final approval hearing[.]" *Lusby v. Gamestop Inc.*, 297 F.R.D. 400, 412 (N.D. Cal. 2013). Instead, at this stage, "[p]reliminary approval of a settlement and notice to the class is appropriate if '[1] the proposed settlement appears to be the product of serious, informed, non-collusive negotiations, [2] has no obvious deficiencies, [3] does not improperly grant preferential treatment to class representatives or segments of the class, and [4] falls within the range of possible approval.'" *Johnson v. Quantum Learning Network, Inc.*, No. 15-CV-5013-LHK, 2016 WL 4529607, at *1 (N.D. Cal. Aug. 30, 2016) (quoting *In re Tableware Antitrust Litigation*, 484 F. Supp. 2d 1078, 1079 (N.D. Cal. 2007)). The "decision to approve or reject a settlement is committed to the sound discretion of the trial judge[.]" *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 458 (9th Cir. 2000), *as amended* (June 19, 2000) (internal quotation marks omitted).

III. Discussion

A. Whether the Class is Adequately Represented and the Settlement is the Product

of Serious, Informed, Non-Collusive Negotiations

Addressing whether the Settlement Agreement is the product of serious, informed, non-collusive negotiations, the Court first looks to whether the parties engaged in an adversarial process to arrive at that agreement. Here, the parties undoubtedly have. This case has been ongoing for over seven years and has involved extensive discovery, motion practice, and an appeal. The parties have engaged in multiple full-day mediations with the help of two different mediators. ECF No. 615-2 ¶ 6. Unable to reach a resolution, the parties proceeded to trial. Only after two-and-a-half days of trial, and with the help of the Court, did the parties finally reach an agreement. At that point, there is no doubt the parties thoroughly understood the details of the case, the merits of their respective positions, and the risks of proceeding to a jury verdict and a possible appeal. This procedural history indicates a lack of collusion. *See Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009) ("We put a good deal of stock in the product of an arms-length, non-collusive, negotiated resolution, and have never prescribed a particular formula by which that outcome must be tested.") (citations omitted); *In re Zynga Inc. Secs. Litig.*, No. 12-CV-4002-JSC, 2015 WL 6471171, at *9 (N.D. Cal. Oct. 27, 2015) (holding that the parties' use of mediator and fact that significant discovery had been conducted "support the conclusion that the Plaintiff was appropriately informed in negotiating a settlement"); *Harris v. Vector Mktg. Corp.*, No. C-08-5198 EMC, 2011 WL 1627973, at *8 (N.D. Cal. Apr. 29, 2011) (noting that the parties' use of a mediator "suggests that the parties reached the settlement in a procedurally sound manner and that it was not the result of collusion or bad faith by the parties or counsel.").

In addition, the Class representative and Class Counsel have adequately represented the Class. With regard to other signs of collusion, the amount of potential attorneys' fees ($1,563,333.33) represents one-third of the GSA ($4,690,000). This is higher than the 25 percent understood as the "benchmark" for a reasonable fee award when calculating a percentage of the common fund. *See Bluetooth*, 654 F.3d at 942 ("[C]ourts typically calculate 25% of the fund as the 'benchmark' for a reasonable fee award, providing adequate explanation in the record of any 'special circumstances' justifying a departure."). However, Plaintiff argues that the requested amount is reasonable in light of the fact that the GSA is under $10 million, the requested fee is a significant discount from the base lodestar calculation, Plaintiff's counsel took on a significant risk of non-payment, and Plaintiff's counsel effectively prosecuted the case for over 7 years to achieve a favorable Settlement for the Class. Mot. 11. Plaintiff also cites cases in which attorneys' fees

in the amount of one-third of the GSA were found to be appropriate, especially when the action reached the trial stage. *See Baten v. Michigan Logistics,* No. CV-18-10229-GW-(MRx), 2023 WL 2440244 (C.D. Cal. March 8, 2023); *Garcia v. Gordon Trucking, Inc.*, No. 1:10-CV-0324-AWI-SKO, 2012 WL 5364575 (E.D. Cal. Oct. 31, 2012). Accordingly, the Court would conclude that this amount is not indicative of collusion or improper settlement arrangements.

B. Obvious Deficiencies

Regarding the second factor, the Court would not find any obvious deficiencies in the Settlement Agreement. As discussed above, there are no obvious indications of collusion, and Plaintiff negotiated a substantial sum of monetary damages for the Class. The funds will be distributed to the Class Members pursuant to a formula based on the number of workweeks each Class Member worked. The Settlement Agreement allows Class Members to opt out. Further, it selects an experienced third-party settlement administrator to perform notification services and administer the Settlement. Based upon these and the other terms of the Settlement Agreement, the Court is satisfied there are no obvious deficiencies with the proposed Settlement.

C. Preferential Treatment

The Court would also find that the Settlement Agreement does not improperly provide preferential treatment to any Class Member. The Class Members will be compensated according to a formula based on the number of workweeks the individual worked for Defendants. Thus, compensation will be proportional to the damages sustained by each Class Member. The Court would find this to be a fair method of compensation which treats Class Members equitably.

Nor is the service award of $10,000 to Mr. Ayala as the Class representative indicative of preferential treatment. Under Ninth Circuit precedent, service awards to named plaintiffs in a class action are permissible and do not necessarily render a settlement unfair or unreasonable. *See, e.g.*, *Rodriguez*, 563 F.3d at 958-69. Plaintiff cites to a number of cases in which federal district courts in California have awarded services awards of $10,000. *See Sypherd v. Lazy Dog Rests., LLC,* 2023 U.S. Dist. LEXIS 23257, at *16 (C.D. Cal. Feb. 10, 2023); *Howell v. Advantage RN, LLC*, No. 17-CV-883 JLS (BLM), 2020 U.S. Dist. LEXIS 182505, at *17 (S.D. Cal. Oct. 1, 2020); *Kang v. Wells Fargo Bank, N.A*, 2021 U.S. Dist. LEXIS 235254, at *35 (N.D. Cal. Dec. 8, 2021); *De Orozco v. Flagship Facility Servs.*, 2020 U.S. Dist. LEXIS 238733, at *23 (S.D. Cal. Dec. 18, 2020). Moreover, the Motion points to Mr. Ayala's substantial contributions to this action:

> Mr. Ayala answered written discovery, helped draft declarations for various motions, prepared for and participated in a full-day deposition, assisted Class Counsel in case investigation, contributed to multiple mediations, maintained communication with Class Counsel throughout the litigation, and faced personal and reputational risks by suing a former employer.

Mot. at 12. In light of these considerations, the Court would not find the service award to be unreasonable or that Settlement Agreement gives preferential treatment to any Class Members.

D. Falling Within the Range of Possible Approval

The last factor asks the Court to examine whether the proposed settlement falls within the range of possible approval. "To determine whether a settlement 'falls within the range of possible approval,' courts focus on 'substantive fairness and adequacy' and 'consider plaintiffs' expected recovery balanced against the value of the settlement offer." *Shuchardt v. Law Office of Rory W. Clark*, No. 15-CV-01329-JSC, 2016 WL 232435, at *10 (N.D. Cal. Jan. 20, 2016) (quoting *Tableware*, 484 F. Supp. 2d at 1080). Plaintiff maintains that, had the case proceeded through the conclusion of trial, he may have obtained a significantly higher award than what is provided in the Settlement Agreement. According to Plaintiff's experts, the total amount of unpaid minimum wages due to the Class could be in excess of $10 million. *See* Mot. at 6-7. Nevertheless, Plaintiff explains in his Motion that continuing with the litigation entailed significant risks. For instance, Defendants argued that much of Plaintiff's claim unpaid minimum wages for time Class Members were logged as "on duty" or "driving" (totaling $425,298) was premised on a misinterpretation of Defendants' data. Mot. at 7-8. In addition, Defendant asserted a good faith defense to the imposition of waiting time penalties, as well as potential court-awarded liquidated damages. *Id.* at 8. The Settlement Agreement avoids the uncertainty associated with Defendants' arguments, the possibility of a negative jury verdict, and the expense and risk associated with an appeal.[3] Thus, even though the total maximum potential recovery could, according to Plaintiff, exceed $10 million, the Court would find that the GSA amount falls well within the range of possible approval and would adequately compensate Class Members.

The Settlement Agreement also states that $30,000 from the GSA shall be allocated to the resolution of the PAGA claims originally asserted in the *Nunez* case, of which 75 percent (*i.e.*,

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[3] Indeed, the Ninth Circuit affirmed an initial ruling of this Court which was adverse to a portion of the Plaintiff's class claims herein. *See* ECF No. 339.

$22,500) will be paid to the LWDA. As other courts have found, that allocation is within the range of reasonable settlements. *See, e.g.*, *Viceral v. Mistras Grp., Inc.*, No. 15-CV-02198-EMC, 2016 WL 5907869, at *8 (N.D. Cal. Oct. 11, 2016).

E. Class Notice

Pursuant to Rule 23(e), district courts must "direct notice in a reasonable manner to all class members who would be bound" by the proposed settlement. *See* Rule 23(e)(1)(B). Due process mandates that notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 174 (1974) (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). Class notice "is satisfactory if it generally describes the terms of the settlement in sufficient detail to alert those with adverse viewpoints to investigate and to come forward and be heard." *Churchill Vill., LLC v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004).

In this case, the parties will hire a third-party settlement administrator to administer the Settlement Agreement. *See* Motion at 13. The Settlement Administrator will email notice where possible; otherwise, the Settlement Administrator will mail a postcard notice and make the long-form notice available to view online. *Id.* Before emailing the notices, the Settlement Administrator will perform a review of the national change of address database. *See id.*; Settlement Agreement § VII(3)(b). The notices will include a description of the litigation, the terms of the Settlement, the number of workweeks the employee worked during the Class Period, and the options available for participating in the Settlement. Mot. at 13. The notices will also provide information regarding the final approval hearing and how Class Members can obtain additional information, object, or opt out within 60 days of the notice mailing. *Id.* at 14. The notices will be worded in easily understandable language and will provide links to access more information and contact Class Counsel with questions. *Id.* In light of these procedures, the Court would conclude that the proposed Class notice is the best notice practicable under the circumstances and consistent with due process.

Further, the Court would approve the Settlement Agreement's selection of Simpluris as the Settlement Administrator – which is an experienced and low-priced administrator that estimates a reasonable cost of administration. *See* ECF No. 615-1 ¶ 12. Defendants should provide a final class list within 14 days of final adoption of this Order, and the Settlement Administrator should

effectuate the notice within 14 days of receipt of the final class list from Defendants.

D. *Cy Pres* Recipient

Finally, Plaintiff requests approval of the proposed *cy pres* recipient. "A cy pres award must be 'guided by (1) the objectives of the underlying statute(s) and (2) the interests of the silent class members,' and must not benefit a group 'too remote from the plaintiff class.'" *Dennis v. Kellogg Co.*, 697 F.3d 858, 865 (9th Cir. 2012) (quoting *Nachshin v. AOL, LLC*, 663 F.3d 1034, 1038 (9th Cir. 2011) and *Six Mexican Workers v. Ariz. Citrus Growers*, 904 F.2d 1301, 1308 (9th Cir. 1990)); *see also Lane v. Facebook, Inc.*, 696 F.3d 811, 821 (9th Cir. 2012) ("[A] district court should not approve a *cy pres* distribution unless it bears a substantial nexus to the interests of the class members.").

Here, the *cy pres* recipient designated in the Settlement Agreement is St. Christopher's Trucker's Fund. Settlement Agreement § VIII(5). According to Plaintiff, St. Christopher's Trucker's Fund is "well-respected in the trucking community for having…a strong reputation for helping drivers who encounter financial crises." Mot. at 15. Plaintiff also states that no counsel or party in this action has any affiliation with the charity. *Id.* The Court would find that St. Christopher's Trucker's Fund is an appropriate *cy pres* recipient because it bears a connection to the interests of the Class Members and the objectives of the relevant California wage and hour laws.

IV. Conclusion

Based on the foregoing discussion, the Court would grant Plaintiff's Motion for preliminary approval of the Class Settlement. At the hearing, the Court will inquire as to the setting of specific dates including the hearing on the final approval of the class action settlement.