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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

TYMUOI HA, et al.

Plaintiffs,

vs.

GOOGLE INC., et al.,

Defendants.

Case No.: 16CV290847

**ORDER AFTER HEARING ON
FEBRUARY 2, 2018**

Final Fairness Hearing

The above-entitled matter came on regularly for hearing on Friday, February 2, 2018 at 9:00 a.m. in Department 1 (Complex Civil Litigation), the Honorable Brian C. Walsh presiding. The Court reviewed and considered the written submission of all parties and issued a tentative ruling on February 1, 2018. No party contested the tentative ruling and no party appeared; therefore, the Court orders that the tentative ruling be adopted and incorporated herein as the Order of the Court, as follows:

This is a putative wage and hour class action by contract recruiters hired by defendant Google Inc. through staffing agencies including defendant UrpanTech. The parties have reached a settlement, which the Court preliminarily approved on June 20, 2017. Plaintiffs now move for final approval of the settlement and, separately, for approval of their attorney fees, costs, and enhancement awards. Plaintiffs' motions are unopposed.

1 I. Legal Standard for Approving a Class Action Settlement

2 Generally, “questions whether a settlement was fair and reasonable, whether notice to the
3 class was adequate, whether certification of the class was proper, and whether the attorney fee
4 award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple*
5 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235, citing *Dunk v. Ford Motor Co.* (1996) 48
6 Cal.App.4th 1794.)

7
8 In determining whether a class settlement is fair, adequate and reasonable, the
9 trial court should consider relevant factors, such as the strength of plaintiffs’ case,
10 the risk, expense, complexity and likely duration of further litigation, the risk of
11 maintaining class action status through trial, the amount offered in settlement, the
12 extent of discovery completed and the stage of the proceedings, the experience
13 and views of counsel, the presence of a governmental participant, and the reaction
14 of the class members to the proposed settlement.

15 (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at pp. 244-245, internal citations and
16 quotations omitted.)

17 The list of factors is not exclusive and the court is free to engage in a balancing and
18 weighing of factors depending on the circumstances of each case. (*Wershba v. Apple Computer,*
19 *Inc.*, *supra*, 91 Cal.App.4th at p. 245.) The court must examine the “proposed settlement
20 agreement to the extent necessary to reach a reasoned judgment that the agreement is not the
21 product of fraud or overreaching by, or collusion between, the negotiating parties, and that the
22 settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” (*Ibid.*, quoting
23 *Dunk v. Ford Motor Co.*, *supra*, 48 Cal.App.4th at p. 1801, internal quotation marks omitted.)

24 The burden is on the proponent of the settlement to show that it is fair and
25 reasonable. However “a presumption of fairness exists where: (1) the settlement
26 is reached through arm’s-length bargaining; (2) investigation and discovery are
27 sufficient to allow counsel and the court to act intelligently; (3) counsel is
28 experienced in similar litigation; and (4) the percentage of objectors is small.”

29 (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 245, citing *Dunk v. Ford Motor*
30 *Co.*, *supra*, 48 Cal.App.4th at p. 1802.) The presumption does not permit the Court to “give
31 rubber-stamp approval” to a settlement; in all cases, it must “independently and objectively
32 analyze the evidence and circumstances before it in order to determine whether the settlement is
33 in the best interests of those whose claims will be extinguished,” based on a sufficiently

1 developed factual record. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.)

2
3 II. Terms and Administration of the Settlement

4 The terms of the settlement are as follows. The \$5.5 million non-reversionary settlement
5 includes a \$75,000 payment to the California Labor and Workforce Development Agency
6 associated with plaintiffs' PAGA claim. Attorney fees of up to \$1,833,333 (one-third of the
7 gross settlement), expenses not to exceed \$50,000, and administration costs estimated at \$20,000
8 will also be paid from the gross settlement. Plaintiff Ha will petition the Court for an incentive
9 award of \$25,000, while the other named plaintiffs will seek incentive payments of \$5,000 each.

10 The remaining net settlement of approximately \$3,481,667 will be distributed to class
11 members pro rata based on their weeks worked and billing rates during the class period, without
12 the need for class members to submit a claim. This will result in an average recovery of \$4,380
13 to each of the 795 estimated members of the class. Funds unclaimed after six months will be
14 redistributed among class members who timely negotiated their payments, and any funds
15 remaining unclaimed after this process will be paid to the Legal Aid at Work (formerly Legal
16 Aid Society-Employment Law Center) as a cy pres beneficiary.

17 Class members who do not opt out of the settlement will release "any and all claims
18 arising at any point from January 27, 2012 until the Preliminary Approval Date, which arise out
19 of the same transactions, series of connected transactions, occurrences or nucleus of operative
20 facts that form the basis of the class claims which were pled or which could have been pled
21 based on the factual allegations contained in the Lawsuit's Operative Complaint," including
22 specified wage and hour claims.

23 The notice process has now been completed. There were no objections to the settlement
24 and one request for exclusion from the class. Of 795 notice packets, 92 were re-mailed to
25 updated addresses provided by the U.S. Postal Service or located through skip tracing and only
26 one was ultimately undeliverable. The claims administrator estimates that the average class
27 member payment will be \$4,390, with a maximum payment of over \$20,800.

1 At preliminary approval, the Court found that the proposed settlement provides a fair and
2 reasonable compromise to plaintiffs' claims. It finds no reason to deviate from this finding now,
3 especially considering that there are no objections. The Court consequently finds that the
4 settlement is fair and reasonable for purposes of final approval.

5
6 III. Attorney Fees, Costs, and Enhancement Award

7 Plaintiffs seek a fee award of \$1,833,333, or 1/3 of the gross settlement, which is not an
8 uncommon contingency fee allocation. This award is facially reasonable under the "common
9 fund" doctrine, which allows a party recovering a fund for the benefit of others to recover
10 attorney fees from the fund itself. Plaintiffs also provide a lodestar figure of \$871,962, based on
11 1,649 hours expended on the case by attorneys with a blended billing rate of \$528.78 per hour
12 and actual rates ranging from \$275 to \$850 per hour. The lodestar results in a reasonable
13 multiplier of 2.1. While some of the time billed, particularly with respect to the instant motions
14 for final approval, appears excessive, a higher multiplier is appropriate in this case due to the
15 complexity of the matter and the excellent result for the class. (See *Laffitte v. Robert Half Intern.*
16 *Inc.* (2016) 1 Cal.5th 480, 489 [multiplier impacted by factors including the quality of the
17 representation, the novelty and complexity of the issues, the results obtained, and the contingent
18 risk presented].) Consequently, as a cross-check, the lodestar information supports the 1/3
19 percentage fee requested, particularly where there are no objections to the attorney fee request.
20 (See *id.* at pp. 503-504 [trial court did not abuse its discretion in approving fee award of 1/3 of
21 the common fund, cross-checked against a lodestar resulting in a multiplier of 2.03 to 2.13].)

22 Plaintiffs also request \$45,594.13 in costs, slightly below the \$50,000 estimate that was
23 provided at preliminary approval. The costs are reasonable based on the summary provided by
24 plaintiffs and are approved. The \$20,000 in administrative costs are also approved.

25 Finally, plaintiff Ha requests a service award of \$25,000, and plaintiffs Bonner, Rabil,
26 and Roberts request awards of \$5,000 each. To support her request, plaintiff Ha submits a
27 declaration describing her efforts and indicating that she spent hundreds of hours on this action,
28 including traveling from Southern California to participate in a full-day mediation in San
Francisco. The other plaintiffs declare that they also attended the mediation and were actively

1 involved in the case during its later stages. The Court finds that the class representatives are
2 entitled to enhancement awards and the amounts requested are reasonable.

3
4 IV. Conclusion and Order

5 Plaintiffs' motions for final approval and for attorneys' fees, reimbursement of expenses,
6 and service awards are GRANTED.

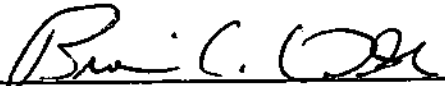
7 The following class is certified for settlement purposes:

8 All persons who worked for Google in California as temporary or contract
9 sourcers, closers, recruiters, or other personnel who performed substantially the
10 same work as workers with those titles or in those roles in Google's People
11 Operations department (including, without limitation, temporary workers assigned
12 to the Channels organization) for at least one day between January 27, 2012 and
13 May 9, 2017.

14 Michelle Goddard is excluded from the class pursuant to her request.

15 IT IS SO ORDERED.

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18 Dated: 2-7-18

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20 Honorable Brian C. Walsh
21 Judge of the Superior Court
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