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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MIKE ABOUMRAD *et al.*,

Plaintiffs,

v.

BORREGO SPRINGS FIRE
PROTECTION DISTRICT,

Defendant.

Case No.: 20cv933-L-KSC

**ORDER GRANTING JOINT
MOTION FOR APPROVAL OF
SETTLEMENT AGREEMENT AND
DISMISSING ACTION WITH
PREJUDICE

(ECF NO. 18)**

Pending before the Court in this collective action alleging violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”), is a Renewed Joint Stipulation for Approval of Settlement Agreement and Dismissal of Case with Prejudice (ECF No. 18, “Joint Motion”). For the reasons stated below, the Joint Motion is granted, and this action is dismissed with prejudice.

This action was filed pursuant to 29 U.S.C. § 216(b) by Defendant’s employees. (*See* ECF no. 1 (“Compl.”).) They alleged Defendant used an unlawful compensation computation method which undercounted Plaintiffs’ “regular rate of pay.” (*Id.* at 2.) This, in turn, resulted in an alleged violation of 29 U.S.C. § 207 by underpayment for overtime. (*Id.*) Plaintiffs sought unpaid overtime with interest, an equal amount of liquidated damages, and attorneys’ fees as provided by 29 U.S.C. § 216(b). (*Id.* at 13.)

1 They also requested a finding that Defendant’s conduct was an intentional, knowing, and
2 willful FLSA violation so as to entitle them to a longer statute of limitations. (*Id.*)
3 Finally, they requested injunctive relief ordering Defendants to change their
4 compensation policies. (*Id.*) The Court has jurisdiction pursuant to 28 U.S.C. § 1331.

5 The FLSA allows for a private action against an employer for violations of 29
6 U.S.C. § 207 “by any one or more employees for and on behalf of himself or themselves
7 and other employees similarly situated.” 29 U.S.C. § 216(b). However, “[n]o employee
8 shall be a party plaintiff to any such action unless he gives his consent in writing to
9 become such a party.” *Id.*

10 Twenty-five of Defendant’s employees (“Employees”) filed a Consent to Be
11 Included as an Individual Plaintiff. (ECF Nos. 3, 17 (“Consent”).) With the Joint
12 Motion, the parties request the Court to approve the Settlement Agreement and Release
13 of Claims (ECF No. 18-3, “Settlement”) between Defendant and Employees. (Joint
14 Motion at 9.) “FLSA claims may not be settled without approval of either the Secretary
15 of Labor or a district court.” *Seminiano v. Xyris Enter., Inc.*, 602 Fed. Appx. 682 (2015).

16 In exchange for a release, Defendant agrees to pay each Employee the sum listed
17 on Exhibit A to the Settlement. (Settlement ¶2, Ex. A.) The individual sums amount to
18 \$100,000, and range from \$17,316.78 to \$109.15, depending on the number of overtime
19 hours each Employee worked during the settlement period. (ECF No. 18-1 (Decl. of
20 David E. Mastagni, Esq. (“Mastagni Decl.”) ¶12.) In addition, Defendant agrees to pay
21 Employees’ attorneys’ fees and costs in the sum of \$35,000. (Settlement ¶2(c).)
22 Attached to the Settlement is each Employee’s Acknowledgment Form, acknowledging
23 his understanding of, and agreement with, the Settlement. (Settlement Ex. B.)

24 The amount awarded to the Employees under the Settlement represents a
25 compromise between the maximum award available if Employees prevailed at trial on all
26 their claims, and numerous disputed issues which could delay final resolution of this
27 action and render its outcome uncertain. (*See* Mastagni Decl. ¶¶ 15-16; ECF No. 18-2
28 (Decl. of Alison D. Alpert, Esq. (“Alpert Decl.”)) ¶¶9-12.) The compromise was reached

1 after informal investigation and discovery to arrive at the potential value of each
2 Employee's claim and evaluation of Defendant's defenses. (Mastagni Decl. ¶ 14; *see*
3 *also* Alpert Decl. ¶8.) Based on the nature of this action and the work and expertise
4 necessary to reach the Settlement, the Court finds that the sum of \$35,000 for attorneys'
5 fees and costs is reasonable. (*See* Mastagni Decl. ¶¶2-6, 17-22.) The Settlement
6 represents a reasonable compromise, and is therefore approved as fair, adequate, and
7 reasonable.

8 Accordingly, it is hereby ordered as follows:

- 9 1. The Joint Motion is granted.
- 10 2. The parties shall discharge their duties and obligations in accordance with
11 the terms of the Settlement.
- 12 3. This action is dismissed with prejudice.

13 **IT IS SO ORDERED.**

14 Dated: May 11, 2021

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16 Hon. M. James Lorenz
17 United States District Judge
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