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**ENDORSED  
FILED**

**DEC 07 2018**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SONOMA**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SONOMA**

JAMIE WATERMAN, on behalf of himself  
and all others similarly situated,

Plaintiffs,

vs.

AMERITECH FINANCIAL, a California  
Corporation; and DOES 1 through 10,  
inclusive,

Defendants.

CASE NO. SCV-261327

CLASS ACTION

**[PROPOSED] ORDER GRANTING  
PLAINTIFF'S MOTION FOR FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Date: November 28, 2018

Time: 2:00 p.m.

Dept: 19

Judge: Allan D. Hardcastle

Action Filed: September 22, 2017

1 On November 28, 2018, a hearing was scheduled on Plaintiff's Motion for Final  
2 Approval of Class Action Settlement. The Court, having read and considered the motion,  
3 the memorandum of points and authorities, supporting declarations, and all other filed  
4 documents and exhibits, and good cause appearing therefore, issued a tentative ruling  
5 granting the Plaintiff's Motion for Final Approval. Neither party sought oral argument  
6 challenging the tentative ruling. It is therefore

7 **HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

8 1. All terms or phrases used in this Order shall have the same meaning as in the  
9 Settlement Agreement.

10 2. Plaintiffs here seek approval of their preliminarily approved settlement with the  
11 Defendant, Ameritech Financial. The final settlement does not deviate from that which was  
12 approved previously.

13 3. Court approval of a class action settlement is a two-step process. (CRC  
14 3.769; *Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 336.) Presently, the  
15 court need only address the fairness issues, as well as any objectors and those who have opted  
16 out.

17 4. In making these determinations, the court may consider relevant factors,  
18 including but not limited to the strength of plaintiffs' case, the risk, expense, complexity and  
19 likely duration of further litigation, the risk of maintaining class action status through trial, the  
20 amount offered in settlement, the extent of discovery completed and the stage of the  
21 proceedings, the experience and views of counsel, the presence of a governmental participant,  
22 and the reaction of the class members to the proposed settlement. *Dunk v. Ford Motor*  
23 *Co.* (1996) 48 Cal.App.4th 1794, 1801. Ultimately, the Court's analysis is aimed at determining  
24 that the agreement is not the product of fraud or overreaching by, or collusion between, the  
25 negotiating parties. The court must, at this stage, determine that the settlement, taken as a  
26 whole, is fair, reasonable and adequate to all concerned. See, for example, *Reed v. United*  
27 *Teachers Los Angeles* (2012) 208 Cal.App.4th 322, at 336-337. The *Reed* court further  
28 explained that the party seeking settlement approval has the burden of showing the settlement to

1 be “fair and reasonable” but that nevertheless “there is a presumption of fairness when: (1) the  
2 settlement is reached through arm's-length bargaining; (2) investigation and discovery are  
3 sufficient to allow counsel and the trial court to act intelligently; (3) counsel is experienced in  
4 similar litigation; and (4) the percentage of objectors is small.” *Id.*, see also *Chavez v. Netflix,*  
5 *Inc.* (2008) 162 Cal.App.4th 43.

#### 6 **Objections/Challenges**

7 5. To date no objections have been filed. No members of the class have opted out,  
8 and the Defendant has filed a notice of non-opposition.

#### 9 **The Net Settlement Amount**

10 6. The Gross Settlement Amount is \$155,000. (Dec. Rist ¶12.) There are 64  
11 members of the Class. (*Id.* ¶8.) The average individual settlement payment to class members  
12 will be approximately \$1,362.64. (Dec. Bench ¶20.)

#### 13 **The Settlement Terms**

14 7. The Settlement will result in the creation of a \$155,000 non-reversionary  
15 fund. This amount will be used to (a) pay attorney’s fees and costs (as awarded by the Court),  
16 (b) to pay the fees and costs of the Settlement Administrator (as awarded by the Court), for  
17 providing Notice to the Class and for administering the Settlement, and (c) to pay any incentive  
18 payments (as awarded by the Court) to Plaintiffs for their services in connection with bringing  
19 and maintaining this action.

#### 20 **Attorney’s Fees, and Costs**

21 8. The Settlement provides that Class Counsel’s fees and costs shall be paid from  
22 the \$155,000 settlement amount, in an amount to be approved and ordered by the Court within  
23 the final settlement. Class Counsel seeks \$51,666.00 in fees. (Dec. Rist ¶ 28.) The fee award  
24 equals 1/3 of the Gross Settlement Fund and appears to be fair and reasonable. Plaintiff is also  
25 seeking \$5,000 in litigation costs, a \$5,000 Class Representative Service Award, and \$5,000 in  
26 administrative costs. Plaintiffs have submitted evidence that Mr. Waterman participated in the  
27 case, and helped facilitate the settlement, justifying a service award. (See Dec. Waterman ¶ 5-  
28 12.)

1           **Conclusion**

2           9.       At this stage, the settlement, payment of fees and costs, and distribution of funds  
3 is fair. The entire settlement amount is available to the class (as it is non-reversionary) and the  
4 fees and costs are in line with what was preliminarily approved—indeed the average amount  
5 estimated to the class is more than the preliminary approval amount, and the attorney fees are  
6 less than what was estimated at the preliminary approval. Further, none of the class members  
7 have opted out or objected to the proposed settlement.

8           10.       The Court hereby approves the settlement terms set forth in the Settlement  
9 Agreement and finds that the Settlement is, in all respects, fair, adequate and reasonable, and  
10 further finds that Plaintiffs have satisfied the standards and applicable requirements for final  
11 approval of this class action settlement pursuant to California Rules of Court 3.769.

12           11.       All Participating Class Members are bound by this Final Approval Order and  
13 Judgment and by the Settlement embodied therein, including the releases provided for in  
14 the Settlement and this Final Approval Order and Judgment. As of the Effective Date of  
15 Settlement Agreement, by operation of the entry of this Final Approval Order and  
16 Judgment, each Participating Class Member, including Plaintiffs, shall be deemed to have  
17 fully released, waived, relinquished and discharged, to the fullest extent permitted by law,  
18 all Released Claims that he or she may have against the Released Parties as set forth in the  
19 Settlement Agreement.

20           12.       Release of Claims of settlement class members shall include the following:  
21 all claims stated in the First Amended Complaint and those based on the facts alleged in  
22 the First Amended Complaint that accrued during the Class Period. Notwithstanding the  
23 above, the release excludes any claims not specifically alleged in the First Amended  
24 Complaint.

25           13.       Additional Release of Claims of Class Representative shall include the  
26 following: In addition to the claims outlined in section 12 above, the Class Representative  
27 provides a general release of all claims, known or unknown, pursuant to Civil Code §1542.  
28

1           14. The request for civil penalties under PAGA in the amount of Fifteen  
2 Hundred Dollars and no cents (\$1,500.00) is hereby granted. Seventy-five percent (75%),  
3 or One Thousand One Hundred Twenty-Five Dollars (\$1,125.00), shall be paid to the  
4 California Labor & Workforce Development Agency. The remaining twenty-five percent  
5 (25%), or Three Hundred Seventy-Five Dollars (\$375.00), shall be allocated to the Net  
6 Settlement Fund.

7           15. No other costs, fees or other relief shall be awarded, either against  
8 Defendant, the Released Parties, or any related persons or entities, as defined in the  
9 Settlement Agreement, or from the award to the Settlement Class.

10           16. Pursuant to the terms of the Settlement Agreement, the instant action is  
11 dismissed with prejudice, subject to Paragraph 17 below.

12           17. Without affecting the finality of this Final Approval Order and Judgment, the  
13 Court reserves continuing and exclusive jurisdiction over the parties to the Settlement,  
14 including Defendant and all Participating Class Members, including Plaintiffs, to  
15 administer, supervise, construe and enforce the Settlement in accordance with its terms for  
16 the mutual benefit of the parties.

17           18. Judgment is entered in accordance with the findings in this Order. This  
18 Judgment is the Final Judgment in the suit as to all Settlement Class Members who have  
19 not excluded themselves from the Settlement. The Court finds that there is no just reason  
20 for delay and expressly directs the Clerk of the Court to enter Judgment immediately.

21 **IT IS SO ORDERED.**

22  
23  
24 DATED: 12/7, 2018

15/ Gary Nadler  
Hon. Gary Nadler  
Judge of the Superior Court