

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAVID WAISBEIN,
Plaintiff,
v.
UBS FINANCIAL SERVICES INC.,
Defendant

No. C-07-2328 MMC

**ORDER AFFORDING PARTIES
OPPORTUNITY TO FILE
SUPPLEMENTAL MEMORANDUM IN
SUPPORT OF STIPULATED REQUEST
FOR APPROVAL OF SETTLEMENT**

Before the Court is a stipulation, filed September 26, 2008, between plaintiff David Waisbein and defendant UBS Financial Services Inc., in which the parties request that the Court approve their settlement.

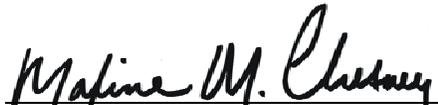
In the stipulation, the parties state their understanding that both federal and state law require that a release of the claims plaintiff alleges, such as plaintiff's claim under the Fair Labor Standards Act, must be approved by a court in order to be binding. The parties, however, have not provided sufficient information to enable the Court to determine whether the settlement is fair. Specifically, the parties have failed to provide any information as to the amount of overtime compensation, penalties, and interest claimed herein by plaintiff, as well as the consideration proposed to be provided, and, consequently, the Court is unable to meaningfully evaluate one of the most significant factors, "the amount offered in

1 settlement.” Cf. In re Mego Financial Corp. Securities Litig., 213 F. 3d 454, 459 (9th Cir.
2 2000) (observing parties provided district court with specific amount plaintiff claimed so as
3 to allow district court to compare amount claimed with amount offered in settlement).¹
4 Further, the parties have not provided any information pertaining to other relevant factors,
5 such as “the strength of the plaintiff’s case” and “the risk, expense, complexity, and likely
6 duration of further litigation.” See id. at 458-59.

7 Accordingly, the Court will afford the parties the opportunity to file, no later than
8 October 17, 2008, a joint supplemental brief, not to exceed five pages in length exclusive of
9 exhibits, in support of the instant stipulated request.

10 **IT IS SO ORDERED.**

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12 Dated: September 29, 2008

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14 MAXINE M. CHESNEY
15 United States District Judge

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26 _____
27 ¹The Ninth Circuit has not expressly held that a district court must approve the
28 settlement of a claim filed under the Fair Labor Standards Act, and, as a result, has not
specified the factors relevant to the Court’s determination in such cases. In the absence of
such direct authority, it would appear appropriate to consider the factors weighed by a
district court when determining the fairness of a proposed class action settlement. See id.
at 458 (setting forth factors).