

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 76

21STCV13092

**ALIREZA JAHANSHAHI, et al. vs BHP HOLDING
PARTNERS, LTD., A CALIFORNIA CORPORATION, et al.**

April 6, 2023

8:30 AM

Judge: Honorable Christopher K. Lui
Judicial Assistant: A. Rising
Courtroom Assistant: S. Sato

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Alireza Alivandivafa appearing via LACC

For Defendant(s): Theresa J. Macellaro appearing via LACC

NATURE OF PROCEEDINGS: Hearing on Motion for Order Approval of PAGA Settlement;
Order to Show Cause Re: Dismissal (Settlement)

The matters are called for hearing.

The Application for Approval of PAGA Settlement, Memorandum of Points and Authorities, Declaration of Azad Marvazy ISO Application for Approval of PAGA Settlement are reviewed by the Court.

The Court having read and considered the moving papers and supporting documents, rules as follows:

RULING

Plaintiffs Alireza Jahanshahi, et al.'s motion to approve PAGA settlement is GRANTED.

ANALYSIS

Motion To Approve PAGA Settlement

Discussion

The parties entered into a settlement agreement. Plaintiffs seek an order permitting settlement of the remaining representative PAGA claim, following dismissal of the individual wage and hour claims.

The State is the real party in interest as to a PAGA claim. (Tanguilig v. Bloomingdale's, Inc. (2016) 5 Cal.App.5th 665, 680.)

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Pursuant to Labor Code § 2699(1)(2) & (4), a copy of the settlement agreement, and notice of this motion, was provided to the Labor and Workforce Development Agency (“LWDA”). (See Declaration of Azad Marvazy, 12; Exh. B; Notice of Hearing filed on March 16, 2023.)

The LWDA was given an opportunity to object if it wished to do so. The Court has not received any objection from the LWDA. It does not appear that Plaintiffs received any objection from the LWDA. As such, the LWDA is deemed to have waived any such objection.

Labor Code, § 2699(1)(2) provides; “The superior court shall review and approve any settlement of any civil action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court.” A copy of the proposed settlement is attached to the Marvazy Declaration as Exh. A.

(i) Except as provided in subdivision (j), civil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the Labor and Workforce Development Agency for enforcement of labor laws, including the administration of this part, and for education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes; and 25 percent to the aggrieved employees.

(Labor Code, § 2699(i).)

Following a mediation session, the parties agreed to settle the representative PAGA claim. (Marvazy Decl., ¶¶ 6, 15.) Prior to settling, Plaintiffs’ counsel analyzed aggrieved employees’ time and wage records, wage statements, related payroll records, employee handbooks and pertinent wage and hour policies. (Marvazy Decl., ¶ 16.)

The aggrieved employees covered by the settlement are persons employed by Defendants in California and classified as a salesperson, (which includes an internet salesperson), or a person with the equivalent position, who worked for Defendants during the PAGA Period.” (Settlement Agreement, ¶ 1.4.) The PAGA Period is defined as “the period from February 3, 2020 to the date of the Court Approval, or such earlier date as is established pursuant to Paragraph 4.1 below.” (Id. at ¶ 1.18.)

Defendants BHP Holding Partners, Ltd., dba Beverly Hills Porsche, Cranbrook Partner, Inc. and Geoffrey Emery agree to pay \$75,000 toward the Settlement (“Gross PAGA Settlement Amount”). (Settlement Agreement, ¶¶ 1.10, 3.1.)

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Payments from the Gross PAGA Settlement Amount will include (1) PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses; (2) Enhancement Payments to each of the six named Plaintiffs; (3) Administrator Expense Payment; (4) PAGA Penalties paid to the LWDA and Aggrieved Employees. (Settlement Agreement, ¶ 3.2.)

According to the moving papers, there are approximately 40 Aggrieved Employees who collectively worked an estimate 861 pay periods during the PAGA period. (Motion, page 3:25-27.)

The deductions from the \$75,000 Gross PAGA Settlement Amount are: (1) PAGA Counsel Fees Payment (33.33% or \$25,000) and PAGA Counsel Litigation Expenses (not more than \$3,669.00)(Settlement Agreement, ¶ 3.2.1); (2) \$500 enhancements to each of the sixth Plaintiffs (total \$3,000)(Settlement Agreement, ¶ 3.2.1); (3) Administrator Expenses Payment not to exceed \$5,500.00 (Settlement Agreement, ¶ 3.2.2); (4) Paga Penalties paid 75% (\$28,373.25) to the LWDA as the LWDA PAGA Payment, and 25% (\$9,457.75) to the Aggrieved Employees as Individual PAGA Payments (Settlement Agreement, ¶ 3.2.3.)

The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$9,457.75) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. All employment taxes and other legally required withholdings may be withheld from payments to the Aggrieved Employees, as appropriate. Any and all employer taxes that Defendants normally would be responsible for paying will be paid from the Gross Settlement Amount. (Settlement Agreement, ¶ 3.2.3.1.)

The Court approves the attorneys' fees in the amount of \$25,00 and attorneys' expenses in an amount not to exceed \$3,669.00. The Court also approves the \$500 Enhancement Payment per named Plaintiff.

Plaintiffs' counsel opines that the proposed settlement is fair, reasonable and adequate given the risks of obtaining a judgment and a large PAGA penalty award against Defendants. (See Marvazy Decl., ¶ 18.)

The Court finds that this amount is fair and reasonable, given the potential merit of Defendant's arguments that would reduce or bar recovery. The Court approves the PAGA Penalty payments to the LWDA and individual Aggrieved Employees.

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The PAGA statute has no notice requirements for unnamed aggrieved employees, and there is no right for them to opt out. (Turrieta v. Lyft, Inc. (2021) 69 Cal.App.5th 955, 974.)

In exchange for payment of the settlement amount, Defendant will receive a release of all PAGA claims, as set forth in ¶ 5 of the Settlement Amount. The Release does not extend beyond the period stated in the Operative Complaint and the PAGA Notice. (Settlement Agreement, ¶ 5.)

The Settlement Administrator will administer the settlement in accordance with ¶ 7 of the Settlement Agreement.

The motion for approval of the PAGA settlement is GRANTED.

Status Conference Re: PAGA Settlement Distribution is scheduled for 10/05/2023 at 08:30 AM in Department 76 at Stanley Mosk Courthouse.

Order to Show Cause Re: Dismissal is scheduled for 10/05/2023 at 08:30 AM in Department 76 at Stanley Mosk Courthouse.

Counsel on behalf of the plaintiff is to give notice to LWDA.

Counsel on behalf of the defendant waives notice.