



SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

TINA DE CAROLIS,

Plaintiff,

v.

BROADCOM CORPORATION, et al.,

Defendants.

Case No.: 21CV384293

**ORDER CONCERNING PLAINTIFF'S
MOTION FOR FINAL APPROVAL OF
CLASS/PAGA SETTLEMENT AND
JUDGMENT**

This is a Private Attorneys General Act ("PAGA") action. Plaintiff alleges that Defendants Broadcom Corporation and CA, Inc. required employees to work off-the-clock and through meal and rest periods, rounded hours to Defendants' advantage, failed to reimburse employees' home office expenses, and committed other wage and hour violations.

The parties reached a settlement, which the Court preliminarily approved in an order filed on June 13, 2022. The factual and procedural background of the action and the Court's analysis of the settlement and settlement class are set forth in that order.

Before the Court is Plaintiff's motion for final approval of the settlement and for approval of her attorney fees, costs, and service award. The motion is unopposed. The Court issued a tentative ruling on November 2, 2022, and no one contested it at the hearing on November 3.

1 The Court now issues its final order, which GRANTS final approval, now that Plaintiff has filed
2 an amended complaint as provided by the settlement.

3 **I. LEGAL STANDARDS FOR SETTLEMENT APPROVAL**

4 **A. Class Action**

5 Generally, “questions whether a [class action] settlement was fair and reasonable,
6 whether notice to the class was adequate, whether certification of the class was proper, and
7 whether the attorney fee award was proper are matters addressed to the trial court’s broad
8 discretion.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234–235 (*Wershba*),
9 disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th
10 260.)

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

18 (*Wershba, supra*, 91 Cal.App.4th at pp. 244–245, internal citations and quotations omitted.)

19 In general, the most important factor is the strength of the plaintiffs’ case on the merits,
20 balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008)
21 168 Cal.App.4th 116, 130 (*Kullar*).) But the trial court is free to engage in a balancing and
22 weighing of relevant factors, depending on the circumstances of each case. (*Wershba, supra*, 91
23 Cal.App.4th at p. 245.) The trial court must examine the “proposed settlement agreement to the
24 extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or
25 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a
26 whole, is fair, reasonable and adequate to all concerned.” (*Ibid.*, citation and internal quotation
27 marks omitted.) The trial court also must independently confirm that “the consideration being
28 received for the release of the class members’ claims is reasonable in light of the strengths and

1 weaknesses of the claims and the risks of the particular litigation.” (*Kullar, supra*, 168
2 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be
3 “provided with basic information about the nature and magnitude of the claims in question and
4 the basis for concluding that the consideration being paid for the release of those claims
5 represents a reasonable compromise.” (*Id.* at pp. 130, 133.)

6 **B. PAGA**

7 Labor Code section 2699, subdivision (l)(2) provides that “[t]he superior court shall
8 review and approve any settlement of any civil action filed pursuant to” PAGA. The court’s
9 review “ensur[es] that any negotiated resolution is fair to those affected.” (*Williams v. Superior*
10 *Court* (2017) 3 Cal.5th 531, 549.) Seventy-five percent of any penalties recovered under PAGA
11 go to the Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-
12 five percent for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC*
13 (2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v.*
14 *Moriana* (2022) ___ U.S. ___, 2022 U.S. LEXIS 2940 (*Viking River*).)

15 Similar to its review of class action settlements, the Court must “determine independently
16 whether a PAGA settlement is fair and reasonable,” to protect “the interests of the public and the
17 LWDA in the enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72
18 Cal.App.5th 56, 76–77.) It must make this assessment “in view of PAGA’s purposes to
19 remediate present labor law violations, deter future ones, and to maximize enforcement of state
20 labor laws.” (*Id.* at p. 77; see also *Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383
21 F. Supp. 3d 959, 971 [“when a PAGA claim is settled, the relief provided for under the PAGA
22 [should] be genuine and meaningful, consistent with the underlying purpose of the statute to
23 benefit the public”], quoting LWDA guidance discussed in *O’Connor v. Uber Technologies,*
24 *Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O’Connor*).)

25 The settlement must be reasonable in light of the potential verdict value. (See *O’Connor,*
26 *supra*, 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential
27 verdict].) But a permissible settlement may be substantially discounted, given that courts often
28 exercise their discretion to award PAGA penalties below the statutory maximum even where a

1 claim succeeds at trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-
2 CV-02198-EMC) 2016 WL 5907869, at *8–9.)

3 **II. TERMS AND ADMINISTRATION OF SETTLEMENT**

4 The non-reversionary gross settlement amount is \$1,375,000. Attorney fees of up to
5 \$458,333.33 (one-third of the gross settlement), litigation costs not to exceed \$25,000, and
6 administration costs of up to \$25,000 will be paid from the gross settlement. \$50,000 will be
7 allocated to PAGA penalties, 75 percent of which will be paid to the LWDA. The named
8 plaintiff will seek an incentive award of \$10,000.

9 The net settlement will be allocated to settlement class members proportionally based on
10 their weeks worked during the settlement period. Class members will not be required to submit a
11 claim to receive their payments. For tax purposes, settlement payments will be allocated 100
12 percent to penalties and interest. The parties thus do not anticipate that employer-side payroll
13 taxes will be owed. Funds associated with checks uncashed after 180 days will be paid to the
14 California State Controller’s Unclaimed Property Division to be held under the Unclaimed
15 Property Law.

16 As reflected in the revised stipulation filed on June 7, class members who do not opt out
17 will release “any and all claims against Defendants and the Released Parties that reasonably arise
18 out or reasonably relate to the factual allegations in the Complaint that, from March 1, 2020
19 through December 13, 2021, Defendants failed to reimburse Class Members for necessary
20 business expenses.” Similarly, non-exempt PAGA employees will release “any and all claims
21 for civil penalties under PAGA against Defendants and the Released Parties that reasonably arise
22 out of or reasonably relate to the factual allegations in the Complaint....”

23 The notice process has now been completed. There were no objections to the settlement
24 and 13 requests for exclusion from the class. Of the 4,198 notices mailed by the administrator,
25 157 were re-mailed to updated addresses and only 13 were ultimately undeliverable. The
26 administrator estimates that the average payment to class members will be \$191.51, with a high
27 payment of \$208.52 and a low payment of \$4.96.

1 At preliminary approval, the Court found that the settlement is a fair a reasonable
2 compromise of the class claims and that the PAGA allocation is genuine, meaningful, and
3 reasonable in light of the statute’s purposes. It finds no reason to deviate from these findings
4 now, especially considering that there are no objections. The Court thus finds that the settlement
5 is fair and reasonable for purposes of final approval.

6 Finally, the settlement provides that Plaintiff will file an amended complaint conforming
7 her allegations to the claims released by the settlement, including the class claim. Plaintiff
8 recently filed this amended complaint, and it appears to comply with the terms of the
9 settlement.

10 **III. ATTORNEY FEES, COSTS, AND INCENTIVE AWARD**

11 Plaintiff seeks a fee award of \$458,333.33, one-third of the gross settlement, which is not
12 an uncommon contingency fee allocation in a wage and hour class action. This award is facially
13 reasonable under the “common fund” doctrine, which allows a party recovering a fund for the
14 benefit of others to recover attorney fees from the fund itself. Plaintiff also provides a lodestar
15 figure of \$217,577.50, based on 342.9 hours spent on the case by counsel billing at \$550–825 per
16 hour. Plaintiff’s request results in a reasonable multiplier of 2.1. The lodestar cross-check
17 supports the percentage fee requested, particularly given the lack of objections to the attorney fee
18 request. (See *Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 488, 503–504 [trial court
19 did not abuse its discretion in approving fee award of 1/3 of the common fund, cross-checked
20 against a lodestar resulting in a multiplier of 2.03 to 2.13].)

21 Plaintiff’s counsel also request \$16,137.15 in litigation costs, below the amount estimated
22 at preliminary approval. Plaintiff’s costs appear reasonable based on the summary provided and
23 are approved. The \$27,524 in administrative costs are also approved, although these costs are
24 somewhat higher than estimated at preliminary approval.

25 Finally, the named plaintiff seeks an incentive award of \$10,000. To support her request,
26 she submits a declaration describing her efforts on the case. The Court finds that the class
27 representative is entitled to an enhancement award and the amount requested is reasonable.
28

1 **IV. ORDER AND JUDGMENT**

2 In accordance with the above, IT IS HEREBY ORDERED, ADJUDGED, AND
3 DECREED THAT:

4 The motion for final approval is GRANTED. The following class is certified for
5 settlement purposes:

6 All current and former non-exempt and exempt employees (excluding the Chief
7 Executive Officer(s)) who worked for Defendants in California at any time from
8 May 10, 2020 through December 13, 2021 [(the "Covered Period")].

9 Excluded from the class are the 13 individuals who submitted a timely request for
10 exclusion.

11 Judgment shall be entered through the filing of this order and judgment. (Code Civ.
12 Proc., § 668.5.) Plaintiff and the members of the class shall take from their complaint only the
13 relief set forth in the settlement agreement and this order and judgment. Pursuant to Rule
14 3.769(h) of the California Rules of Court, the Court retains jurisdiction over the parties to
15 enforce the terms of the settlement agreement and the final order and judgment.

16 The Court sets a compliance hearing for **June 1, 2023 at 2:30 P.M.** in Department 1. At
17 least ten court days before the hearing, class counsel and the settlement administrator shall
18 submit a summary accounting of the net settlement fund identifying distributions made as
19 ordered herein; the number and value of any uncashed checks; amounts remitted to the
20 Controller; the status of any unresolved issues; and any other matters appropriate to bring to the
21 Court's attention. Counsel shall also submit an amended judgment as described in Code of Civil
22 Procedure section 384, subdivision (b). Counsel may appear at the compliance hearing remotely.

23 **IT IS SO ORDERED.**

24 Date: November 4, 2022

25 
26 _____
27 The Honorable Sunil R. Kulkarni
28 Judge of the Superior Court