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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF CONTRA COSTA

KIRK PATRICK ANTHONY JONES, JR., individually, and on behalf of all others similarly situated,

Plaintiff,

vs.

REAL TIME STAFFING SERVICES, LLC, a limited partnership; and DOES 1 though 10, inclusive,

Defendants.

Case No.: MSC21-01164

[Honorable Edward G. Weil, Department 39]

~~[PROPOSED]~~ ORDER GRANTING PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT

[*Filed with Plaintiff's Notice of Motion and Motion for Approval of PAGA Settlement, Declaration of Kane Moon, Declaration of Plaintiff, and [Proposed] Judgment*]

PAGA APPROVAL HEARING:
Date: May 15, 2025
Time: 9:00 a.m.
Dept.: 39

Complaint Filed: June 9, 2021
Trial Date: Not Set

[PROPOSED] ORDER

The Court, having considered Plaintiff Kirk Patrick Anthony Jones, Jr.'s ("Plaintiff") Notice of Motion and Motion for Approval of PAGA Settlement ("PAGA Approval Motion"), the supporting declarations and the exhibits therein, and all papers filed and proceedings had herein, having reviewed the record in the Action, and good cause appearing, **HEREBY ORDERS AND DECREES AS FOLLOWS:**

1. The Court, for purposes of this Order, refers to all terms and provisions as defined in the PAGA Settlement Agreement ("Settlement") entered into by and between Plaintiff and Defendant Real Time Staffing, LLC ("Defendant"), which is attached to the Declaration of Kane Moon in Support of Plaintiff's Motion for Approval of PAGA Settlement as "Exhibit 1."

2. The Court issued a tentative ruling granting the PAGA Approval Motion, which became the order of the Court on May 15, 2025. Attached hereto as **Exhibit A** is the Court's May 15, 2025 order containing the tentative ruling granting the PAGA Approval Motion.

3. The Court finds that the Settlement is fair, reasonable, and adequate, and hereby grants the PAGA Approval Motion. The obligations set forth in the Settlement are deemed part of this Order, and the Parties and Administrator are ordered to carry out the Settlement according to its terms and provisions.

4. The Court finds that Plaintiff has exhausted all administrative remedies required to bring the Private Attorneys General Act, California Labor Code § 2698, *et seq*. ("PAGA"), claims asserted in this Action and is authorized to act as a private attorney general with respect to the PAGA claims being released under the terms of the Settlement and this Order.

5. The "Aggrieved Employees" are all hourly-paid, non-exempt employees of Defendant who worked for Defendant in California during the PAGA Period at third-party HelloFresh's distribution center in Richmond, California.

6. The "PAGA Period" is the period from June 7, 2020 through March 24, 2022.

7. The Court appoints Plaintiff's counsel of record, Moon Law Group, P.C., as PAGA Counsel.

8. The Court appoints Simpluris, Inc. as the Administrator.

9. As set forth in the Settlement, effective on the date Defendant fully funds the Gross Settlement Amount, Plaintiff, the Aggrieved Employees, and PAGA Counsel will release claims against all Released Parties as follows:

a. Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been alleged, or could have been sought by the Labor Commission based on the facts contained in the Operative Complaint and the PAGA Notice that accrued at any time during the PAGA Period ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

i. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff will expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads: A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

b. Release by Aggrieved Employees. All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for all penalties under the California Private Attorneys' General Act (Labor Code section 2698, et seq.) that were alleged, or reasonably could have been alleged, or could have been sought by the Labor Commissioner for the violations identified in Plaintiff's Operative Complaint, and Plaintiff's PAGA Notice that accrued at any time during the PAGA Period ("Released PAGA Claims"). Aggrieved Employees, with the exception of Plaintiff, retain their rights to pursue claims for wages, statutory penalties, and any other damages, other than the PAGA claims being released by this Settlement.

c. Release by PAGA Counsel. PAGA Counsel releases on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expense Payment in connection with the Operative Complaint and the PAGA Notice.

d. "Released Parties" means Real Time Staffing Services, LLC, and its respective past, present, or future affiliates, related entities, parents, subsidiaries, owners, members, partners, officers, directors, board members, managers, supervisors, employees, coemployers, predecessors, successors, assigns, agents, shareholders, investors, insurers, legal representatives, representatives, independent contractors, and HelloFresh.

10. The Settlement is not an admission by Defendant, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Order, the Settlement, nor any document referred to herein, nor any action taken to carry out the Settlement, may be used as an admission of any fault, wrongdoing, omission, concession, or liability whatsoever by or against Defendant; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit.

11. "Effective Date" means the date by which both of the following have occurred: (a) the Court enters a Judgment on its Approval Order, and (b) the Judgment is final. The judgment is final 60 calendar days after entry of Judgment.

12. Defendant shall pay a Gross Settlement Amount of $360,000.00 pursuant to the terms of the Settlement, which shall include the following payments:

a. PAGA Counsel Fees Payment of $120,000.00 for reasonable attorneys' fees pursuant to PAGA;

b. PAGA Counsel Litigation Expenses Payment of $26,857.62 for reimbursement of litigation costs actually incurred by PAGA Counsel, pursuant to PAGA;

c. Administration Expenses Payment of up to $6,000.00, payable to the Administrator for its reasonable fees and expenses in administering the Settlement; and

d. The remaining amount as PAGA Penalties, which, pursuant to PAGA, shall be allocated as follows: 75% to the Labor and Workforce Development Agency ("LWDA") and 25% to the Aggrieved Employees on a pro-rata basis.

13. Defendant shall transmit to the Administrator the entire Gross Settlement Amount due under the Settlement within fifteen (15) calendar days after the Effective Date.

14. Within seven (7) calendar days after Defendant fully funds the Gross Settlement Amount, the Administrator shall disburse the funds pursuant to the terms specified in the Settlement.

15. The Court approves of the letter giving notice of the Settlement, attached to the Settlement as "Exhibit B," to be sent by the Administrator to the Aggrieved Employees along with their respective Individual PAGA Payment checks.

16. The Parties shall bear their own respective attorneys' fees and costs, except as otherwise provided for in the Settlement and approved by the Court. Defendant and the Released Parties shall have no further liability for costs, expenses, interests, attorneys' fees, or for any other charge, expense, or liability relating to the Released Claims and shall be released from all claims as set forth in the Settlement and this Order.

17. Pursuant to California Code of Civil Procedure section 664, this Court shall retain jurisdiction over the Parties, Action, and Settlement solely for purposes of (i) enforcing the Settlement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

18. Plaintiff shall submit a copy of this Order to the LWDA within thirty (30) calendar days of entry of this Order.

19. This Action is dismissed with prejudice.

20. The Court sets a Compliance Hearing re: Distribution on **September 25, 2025 at 9:00 a.m. in Department 39**. PAGA Counsel are ordered to file a final report and declaration by the Administrator regarding settlement distribution no later one week prior to the Compliance Hearing. No appearance will be required at the Compliance Hearing if the Administrator's declaration reports that all the distributions under the PAGA Settlement are complete. 5% of the attorneys' fees shall be withheld by the Administrator pending the Compliance Hearing.

IT IS SO ORDERED.

Dated: 6/16/2025

Hon. Edward Weil

Honorable Edward G. Weil
Judge of the Contra Costa County Superior Court

EXHIBIT A

Superior Court of California, Contra Costa County

Department 39
925-608-1000
www.cc-courts.org

F. Li
Court Executive Officer

MINUTE ORDER

KIRK PATRICK ANTHONY JONES, JR. VS. REAL TIME STAFFING SERVICES, LLC **MSC21-01164**

HEARING DATE: 05/15/2025

PROCEEDINGS: *HEARING ON MOTION IN RE: APPROVAL OF PAGA SETTLEMENT

DEPARTMENT 39
JUDICIAL OFFICER: EDWARD G WEIL

CLERK: BROOKE POOL
COURT REPORTER: NOT REPORTED
BAILIFF: KIAN LAVASSANI

JOURNAL ENTRIES:

Appearances:
No appearance by either party.

Proceedings:
There being no opposition to the tentative ruling, the tentative ruling becomes the order of the court as follows:

***TENTATIVE RULING: ***

Kirk Patrick Anthony Jones, Jr., moves for approval of the settlement of his PAGA suit against defendant Real Time Staffing Services, LLC.

A. Background of the Case and Terms of Settlement

This is (now) a PAGA case, based on a notice to the LWDA from June 5, 2021, alleging a variety of violations of the Labor Code concerning failure to provide rest and meal breaks, failure to pay for off-the-clock work, failure to reimburse business expenses, and cascading derivative violations. The original complaint. filed June 9, 2021, as a non-PAGA class action, was amended to include PAGA claims. Plaintiff later dismissed the class claims.

The total settlement payment is $360,000. This is composed of attorney's fees of $120,000 (one-third of the settlement), litigation costs of up to $28,000 (which are currently $26,857.62), $6,000 in costs to the settlement administrator. The remaining amount (at least $206,000) would be a PAGA penalty, which would be apportioned 75% to the LWDA and 25% to the aggrieved employees, i.e., $154,500 to the LWDA and $51,500 to the aggrieved employees. The estimated 1,365 aggrieved employees will receive an estimated average payment of $37.73.

The payments from the employee share of the penalty will be distributed among the employees based on the number of pay periods each individual worked during the PAGA period.

Plaintiff's counsel attests that they engaged in extensive arms-length settlement negotiations, including a session with an experienced mediator. Informal discovery was undertaken. Counsel's declaration provides a general discussion of the strengths and weaknesses of the case, including an estimate of the percentage of breaks that were violative. He estimates the maximum and "risk adjusted" value of the claims

Plaintiff provided required notices to the LWDA of the initial claims and of the proposed settlement.

The settlement provides a process for mailing the notices to the aggrieved employees, who will not have to submit a claim, along with a process for following up on returned mail. Because this is a PAGA settlement, not a class action, there is no opportunity to object or opt out.

The settlement provides that the value of checks uncashed after 180 days will be turned over to the State Controller's Office Unclaimed Property Division in the names of the aggrieved employees.

The settlement releases any claims under PAGA that "that were alleged, or reasonably could have been alleged, or could have been sought by the Labor Commissioner for the violations identified in Plaintiff's Operative Complaint, and Plaintiff's PAGA Notice that accrued at any time during the PAGA Period." Under recent appellate authority, limitation to those claims with the "same factual predicate" as those alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 537 ["A court cannot release claims that are outside the scope of the allegations of the complaint." "Put another way, a release of claims that goes beyond the scope of the allegations in the operative complaint' is impermissible." (*Id*., quoting *Marshall v. Northrop Grumman Corp*. (C.D. Cal.2020) 469 F.Supp.3d 942, 949.) Similarly, in a PAGA case, the release is limited to claims set forth in the LWDA notice. The language here, however, purports to bar anything that "could have been sought by the Labor Commissioner for the violations in …Plaintiff's PAGA Notice." This language is somewhat ambiguous: it can be interpreted to release any claim that could be brought by the Labor Commissioner, or only claims by the Labor Commissioner that were included in plaintiff's PAGA notice. The former would be impermissible. The Court's approval is conditioned upon the latter interpretation of the language.

B. Standards for Review of a PAGA Settlement

Settlements in PAGA cases must be approved by the court. (Labor Code § 2699(s)(2).) The Court of Appeal's decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found that the "fair, reasonable, and adequate" standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The Court also held that the trial court must assess "the fairness of the settlement's allocation of civil penalties between the affected aggrieved employees[.]" (*Id*., at 64-65.)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, "[t]he court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter." (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that *Neary* does not always apply, because "[w]here the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutatory purpose." (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 46, 63.)

C. Application to this settlement

Plaintiff indicates that the settlement is fair and was evaluated by counsel based on adequate information and arms-length negotiation. Even assuming success on the merits of each claim, PAGA gives the court discretion to reduce penalties for a variety of reasons, including where "based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust arbitrary and oppressive, or confiscatory." (Labor Code, § 2699(e)(2).) These factors make the result hard to predict. Considering counsel's analysis, the Court finds that the recovery is fair, reasonable, and adequate.

Labor Code section 2699(k)(1) provides that a prevailing employee in a PAGA action may recover attorney's fees. Plaintiff seeks one-third of the total settlement amount as fees, relying on the "common fund" theory. Even a proper common fund-based fee award, however, should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. It stated: "If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment." (*Id*., at 505.) Although *Lafitte* concerns a class action, not a PAGA-only case, this Court views the use of a lodestar cross-check as appropriate here. Based on one-third of the recovery, plaintiff seeks $120,000.

Plaintiff has conducted a lodestar cross-check. Counsel calculate 166.6 hours, at a blended hourly rate of $676. (Hours are billed at $950, $900, $550, and $700.) This results in a lodestar of approximately $112,735, with an implied multiplier of less than 1.1. Without necessarily endorsing every individual component of the lodestar, no adjustment is required.

The statute does not expressly address how the 25% plaintiff's share of the penalties is to be allocated among all of the aggrieved employees. (*Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 382.) One court has held, however, that the entire 25% share of penalties could not be awarded to the plaintiff. (*Moorer v. Noble L.A. Events, Inc.* (2019) 32 Cal.App.5th 736, 742-743.) In *Moorer*, the plaintiff had a claim worth about $9,500, yet was collecting penalties of $148,000, and keeping the entire employee share, causing the court to be concerned that the plaintiff had lost sight of the fact that the purpose of the action is to benefit the public, not private parties. Allocation based on pay periods is reasonable here.

Litigation costs of $26,857.62 (less than the maximum of $28,000 provided in the agreement), are sought. They are reasonable and are approved.

The administrator's costs of $6,000, are reasonable and are approved.

D. Conclusion

The Court finds that the settlement is fair, reasonable, and adequate, and grants the motion to approve.

Counsel are directed to prepare an order incorporating the provisions of this ruling.

In addition, the order should include a compliance hearing for a suitable date (after the settlement has been implemented), chosen in consultation with the Department's clerk. One week before the compliance hearing, counsel shall file a compliance statement. 5% of the attorney's fees shall be withheld by the Administrator pending the compliance hearing.

DATED: 5/15/2025 BY:___________________________________

B. POOL, DEPUTY CLERK

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 725 S Figueroa St., 31st Floor, Los Angeles, California 90017. On **June 6, 2025**, I served the foregoing document described as:

[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT

X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s) addressed as follows:

Gregory G. Iskander
Cristina L. Piechocki
William Kim
Gaye Rose
LITTLER MENDELSON P.C.
Treat Towers
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Attorneys for Defendant Real Time Staffing Services, LLC

[✓] BY Via Court Approved Efiling & Eservice Vendor: FILE & SERVE EXPRESS: by transmitting via electric service the document(s) listed above to the parties and or email address(es) set forth below.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **June 6, 2025**, at Los Angeles, California.

Steven Delgado /s/ Steven Delgado
Name Signature