

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 56

21STCV43898

BERNADINE SMALLEY vs BRIGHTON COLLECTIBLES

October 24, 2024

8:30 AM

Judge: Honorable Holly J. Fujie

Judicial Assistant: O.Chavez

Courtroom Assistant: B. Chavez

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Hearing on Motion to Confirm Settlement for Approval of
PAGA Settlement - Reservation ID: 447233439289; Non-Appearance Case Review re:
Dismissal After Settlement

The matter is held.

The tentative ruling was posted on the court's website.

All parties submitted to the court's tentative ruling via e-mail.

The court adopts its tentative ruling which becomes the order of the court.

The Motion to Confirm Settlement filed by Bernadine Smalley on 08/12/2024 is Granted.

MOVING PARTY: Plaintiff BERNADINE SMALLEY ("Plaintiff")

RESPONDING PARTY: None

The Court has considered the moving papers. The motion is unopposed. (Code Civ. Proc. § 1005(b).)

BACKGROUND

On December 2, 2021, Plaintiff filed the original putative class action complaint in this matter. On January 28, 2022, Plaintiff filed a first amended complaint to also allege a representative action under PAGA. The operative complaint alleges Defendant Brighton Collectibles, LLC ("Defendant") failed to pay overtime at the regular rate of pay, failed to provide meal periods, failed to pay meal period premiums at the regular rate of pay, failed to timely pay wages, and failed to provide accurate itemized wage statements.

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On June 18, 2024, the parties filed a Joint Notice of Settlement.

On August 12, 2024, Plaintiff filed the instant motion to approve the PAGA settlement reached in this action (the "Motion"). The Motion was properly served and is unopposed.

DISCUSSION

Standard

Pursuant to Labor Code section 2699(1)(2), "[t]he 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." The purpose of this requirement is to "ensur[e] that any negotiated resolution is fair to those affected." (Williams v. Superior Court (2017) 3 Cal.5th 531, 549.) "Aside from the requirement that the court 'review and approve' a settlement in a civil action filed under PAGA (§ 2699, subd. (1)(2)), PAGA itself does not provide a standard for this review." (Moniz v. Adecco USA, Inc. (2021) 72 Cal.App.5th 56, 75.) "[A] trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." (Id. at 77.)

"A PAGA representative action is therefore a type of qui tam action." (Iskanian v. CLS Transportation Los Angeles, LLC (2014) 59 Cal.4th 348, 382 abrogated on other grounds by Viking River Cruises, Inc. v. Moriana (2022) 142 S.Ct. 1906.) Approval of a qui tam action generally requires a court determination "that the proposed settlement is fair, adequate, and reasonable under all of the circumstances." (Gov. Code, § 12652(e)(2)(B).) "Because many of the factors used to evaluate class action settlements bear on a settlement's fairness—including the strength of the plaintiff's case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount—these factors can be useful in evaluating the fairness of a PAGA settlement. Given PAGA's purpose to protect the public interest, we also agree with the LWDA and federal district courts that have found it appropriate to review a PAGA settlement to ascertain whether a settlement is fair in view of PAGA's purposes and policies." (Moniz, supra, 72 Cal.App.5th at 77.)

Terms of the Settlement

The terms of the settlement are set forth in the Joint Stipulation of PAGA Settlement ("Agreement"). (Declaration of Simon L. Yang ["Yang Decl."], ¶ 6, Exh. 1.) The Motion and Settlement were properly provided to the LWDA. (Yang Decl. ¶ 20., Exh. 4.)

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The Agreement provides for a settlement amount (the “Settlement Amount”) of \$180,000.00. (Agreement, § 3.1.) From the Settlement Amount, attorneys’ fees will be no more than 33% of the Settlement Amount (or \$60,000.00) and litigation costs of up to \$15,000.00 are permitted—though Plaintiff’s counsel seeks reimbursement of \$11,617.16 in costs only. (Id., § 3.1.1; Yang Decl. ¶¶ 11-12, Ex. 2.) The requested General Release Payment is \$10,000.00. (Agreement, § 3.1.2.) The requested Administration Costs are \$5,000.00. (Agreement, § 3.1.3.) The PAGA Penalty Fund thus will be \$93,382.84, and pursuant to statute, 75% of the PAGA Penalty Fund (or \$70,037.13) would constitute the LWDA Payment, and 25% of the PAGA Penalty Fund (or \$23,345.71) would be payable to Aggrieved Employees based on the number of relevant pay periods worked by each Aggrieved Employee. (Id., § 3.1.4; Yang Decl., ¶ 12.)

The release provided is appropriately narrow to solely encompass claims for PAGA penalties that could have been asserted in this action. (Agreement, § 5.) The Settlement Administrator shall be Phoenix Settlement Administrators. (Id., § 4.1.)

The Total Settlement Amount is Fair, Reasonable, and Adequate Under the Circumstances of the Case

Here, Defendant provided the relevant numbers of pay periods in which alleged overtime underpayments occurred and in which meal period entitlements arose, among other things—enabling Plaintiff to assess the full value of the PAGA claims and further enabling negotiations to take place between the parties. (Yang Decl., ¶ 5.) Both Plaintiff’s counsel and Defendant’s counsel are experienced in wage and hour and PAGA litigation, and Plaintiff’s counsel has been approved as class counsel in numerous wage and hour class actions. (Declaration of Larry W. Lee (“Lee Decl.”) ¶¶ 2-5; Yang Decl. ¶¶ 13-16.) The parties reached the proposed settlement after extensive negotiations and a mediation session with an experienced wage and hour mediator. (Yang Decl., ¶ 6.) These circumstances suggest that the settlement is the result of arm’s length negotiations between the parties and their counsel, and is entitled to a presumption of fairness.

Plaintiff calculated the maximum total PAGA exposure to be \$1,214,100.00 – or \$100 for each of approximately 12,141 relevant pay periods that Plaintiff contended had Labor Code violations based upon the available data. (Id., ¶ 7.) Plaintiff contends that the Settlement Amount of \$180,000.00—approximately 14.83% of that potential recovery—is an excellent result. (Id.)

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The Court finds the \$180,000.00 settlement is fair, reasonable, and adequate considering Plaintiff's PAGA claims, Defendant's potential defenses, possible reductions in any eventual PAGA award, and the posture of this case. (Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 130 ("The most important factor is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement.")) The \$180,000.00 settlement provides genuine and meaningful relief consistent with the purpose of PAGA. (Moniz, supra, 72 Cal.App.5th at 77 ("a trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws."))

Plaintiff requests attorneys' fees in the amount of \$60,000.00, or one-third of the Settlement Amount, and \$11,617.16 in costs. The fees and costs are supported by the declaration of attorney Simon Yang, who indicates Plaintiff's lodestar attorneys' fees are \$74,475 based on an hourly rate of \$750 per hour for 99.3 total hours. (Yang Decl., ¶¶ 11, 17-19, Exhs. 2, 3.) The proposed fees and costs are acceptable under the common fund doctrine and are significantly less than the pre-multiplier lodestar amount. (Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 557; Laffitte v. Robert Half Internat. Inc. (2016) 1 Cal.5th 480, 503.) Considering the work completed by Plaintiff's counsel to bring about this PAGA settlement, (e.g., legal research, discovery, damages analysis, mediation, etc.), the Court finds that the attorney fees and costs are reasonable.

RULING

Accordingly, the Motion is GRANTED.

Plaintiff shall provide the LWDA with a copy of this order within 10 days. (Lab. Code § 2699 subd. (s)(3) ("A copy of the superior court's judgment in any civil action filed pursuant to this part and any other order in that action that either provides for or denies an award of civil penalties under this code shall be submitted to the agency within 10 days after entry of the judgment or order."))

Moving party is ordered to give notice of this ruling.

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Dated this 24th day of October 2024

/s/ Holly J. Fujie

Hon. Holly J. Fujie

Judge of the Superior Court

The Court orders the Amended Complaint (1st) filed by Bernadine Smalley on 01/28/2022 dismissed without prejudice.