

ORDER ON SUBMITTED MATTER

Filed  
March 11, 2025  
Clerk of the Court  
Superior Court of CA  
County of Santa Clara  
19CV357498  
By: tduarte

ORDER ON SUBMITTED MATTER

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA

RANDY GINES, as an individual and on behalf  
of all others similarly situated,

Plaintiff,

vs.

LUCILE PACKARD CHILDREN'S HOSP., an  
unknown entity; and DOES 1 through 50,  
inclusive,

Defendants.

Case No. 19CV357498

**ORDER RE: MOTION FOR FINAL  
APPROVAL OF CLASS AND  
REPRESENTATIVE ACTION  
SETTLEMENT**

The above-entitled action came on for hearing before the Honorable Theodore C. Zayner on February 26, 2025, at 1:30 p.m. in Department 19. Having reviewed and considered the written submissions filed by the parties and having listened carefully to arguments of counsel at the hearing, the court now issues its order after hearing as follows.

**I. INTRODUCTION**

This is a consolidated class and representative action arising from alleged wage and hour violations brought by plaintiffs Randy Gines ("Gines"), Patricia Rios ("Rios"), and Karen Roldan ("Roldan") (collectively, "Plaintiffs") against defendant Lucile Packard Children's Hospital at Stanford ("Defendant").

On October 28, 2019, Gines commenced this action by filing his Class Action Complaint against Defendant, designated as Santa Clara County Superior Court Case No. 19CV357498 (the

1 “*Gines* Action”).<sup>1</sup> Gines subsequently filed a First Amended Class Action complaint on August  
2 18, 2021.

3 On August 26, 2021, Rios filed a Class Action Complaint against Defendant, designated  
4 as Santa Clara County Superior Court Case No. 21CV386232 (the “*Rios* Action”).

5 On November 15, 2021, the court entered an order on the parties’ Stipulation to  
6 Consolidate the *Gines* Action and the *Rios* Action (the “*Gines* Consolidated Action”). On April  
7 15, 2022, Gines and Rios filed a motion for leave to file an amended consolidated complaint,  
8 which the court granted on May 18, 2022.

9 On May 10, 2022, Roldan filed two complaints against Defendant in Santa Clara County  
10 Superior Court: a class action complaint (Case No. 22CV397838); and a representative  
11 complaint under the Private Attorneys General Act (“PAGA”) (Case No. 22CV397839). On  
12 February 2, 2023, the court entered an order consolidating Roldan’s two actions (the “*Roldan*  
13 Consolidated Action”).

14 On July 17, 2024, the court entered an order consolidating the *Gines* Consolidated Action  
15 and *Roldan* Consolidated Action into the *Gines* Consolidated Action. The court also granted  
16 leave for the parties to file the operative Second Amended Consolidated Class and  
17 Representative Action Complaint (“SACC”), deemed filed on July 17, 2024.

18 The SACC sets forth the following causes of action:

- 19 (1) Violations of California Labor Code, §§ 226(a), 1174(d), and 1198 (failure  
20 to provide accurate itemized wage statements, maintain accurate and  
21 complete payroll records, and maintain accurate and complete timekeeping  
22 records);
- 22 (2) Violations of California Labor Code, §§ 233, 246, 248.1, 248.2, and 248.5  
23 (failure to provide sick pay);
- 23 (3) Violations of California Labor Code, §§ 510, 558, 1194, 1197.1, and 1198  
24 (failure to pay overtime wages);
- 24 (4) Violations of California Labor Code, §§ 1182.12, 1194, 1197, 1197.1, and  
25 1198 (failure to pay minimum wages);
- 25 (5) Violations of California Labor Code, §§ 226.7, 512(a), and 1198 (failure to  
26 provide and record meal periods);

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27 <sup>1</sup> This introduction summarizes the procedural history as set forth in the Stipulation and  
28 Order to Consolidate Cases and Leave to File Second Amended Consolidated Complaint,  
entered as an order and filed on July 17, 2024.

- (6) Violations of California Labor Code, §§ 226.7 and 1198 (failure to provide rest periods);
- (7) Violations of California Labor Code, § 204 (failure to timely pay wages during employment);
- (8) Violations of California Labor Code, §§ 201, 202, 203 (failure to pay wages upon termination);
- (9) Violations of California Labor Code, §§ 1194, 1197, and 1198 (failure to pay reporting time pay);
- (10) Violations of California Labor Code, § 223 (secret underpayment of wages);
- (11) Violations of California Labor Code, §§ 2800 and 2802 (failure to reimburse necessary business expenses);
- (12) Violations of California Labor Code, §§ 2698, *et seq.* (civil penalties pursuant to PAGA); and
- (13) Violations of California Business and Professions Code, §§ 17200, *et seq.* (unfair or unlawful business practices).

The parties have reached a settlement, and Plaintiffs filed an unopposed motion for preliminary approval of the settlement. On August 15, 2024, the court issued an order granting preliminary approval of the settlement and setting a final approval hearing for February 26, 2025.<sup>2</sup> On January 28, 2025, Plaintiffs filed the motion now before, a motion for final approval of the settlement. The motion is unopposed.

## **II. LEGAL STANDARD FOR SETTLEMENT AGREEMENTS**

### **A. Class Action**

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

In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as the strength of plaintiffs’ case,

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<sup>2</sup> On November 15, 2024, Defendant filed a notice of related case regarding: *Masoud Golchereh v. Lucile Salter Packard Children’s Hospital at Stanford*, (Super. Ct. Santa Clara County, 2024, No. 24CV441962).

1 the risk, expense, complexity and likely duration of further litigation, the risk of  
2 maintaining class action status through trial, the amount offered in settlement, the  
3 extent of discovery completed and the stage of the proceedings, the experience  
4 and views of counsel, the presence of a governmental participant, and the reaction  
5 of the class members to the proposed settlement.

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

8 In general, the most important factor is the strength of the plaintiffs' case on the merits,  
9 balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008)  
10 168 Cal.App.4th 116, 130 (*Kullar*).) But the trial court is free to engage in a balancing and  
11 weighing of factors depending on the circumstances of each case. (*Wershba, supra*, 91  
12 Cal.App.4th at p. 245.) The trial court must examine the "proposed settlement agreement to the  
13 extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or  
14 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a  
15 whole, is fair, reasonable and adequate to all concerned." (*Ibid.*, citation and internal quotation  
16 marks omitted.)

17 The burden is on the proponent of the settlement to show that it is fair and reasonable.  
18 However "a presumption of fairness exists where: (1) the settlement is reached through arm's-  
19 length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to  
20 act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of  
21 objectors is small."

22 (*Wershba, supra*, 91 Cal.App.4th at p. 245, citation omitted.)

## 23 **B. PAGA**

24 Labor Code section 2699, subdivision (s)(2) provides that "[t]he superior court shall  
25 review and approve any settlement of any civil action filed pursuant to" PAGA. The court's  
26 review "ensur[es] that any negotiated resolution is fair to those affected." (*Williams v. Superior*  
27 *Court* (2017) 3 Cal.5th 531, 549.) Seventy-five percent of any penalties recovered under PAGA  
28 go to the Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-  
five percent for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC*

(2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v. Moriana* (2022) 596 U.S.\_\_\_\_, 2022 U.S. LEXIS 2940.)

Like its review of class action settlements, the Court must “determine independently whether a PAGA settlement is fair and reasonable,” to protect “the interests of the public and the LWDA in the enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 76-77.) It must make this assessment “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 p. 77; see also *Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383 F. Supp. 3d 959, 971 [“when a PAGA claim is settled, the relief provided for under the PAGA [should] be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public ....”], quoting LWDA guidance discussed in *O’Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O’Connor*).)

The settlement must be reasonable considering the potential verdict value. (See *O’Connor, supra*, 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential verdict].) But a permissible settlement may be substantially discounted, given that courts often exercise their discretion to award PAGA penalties below the statutory maximum even where a claim succeeds at trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-cv-02198-EMC) 2016 WL 5907869, 2016 U.S. Dist. LEXIS 140759, at \*20-24.)

### **III. TERMS AND ADMINISTRATION OF SETTLEMENT**

This case has been settled on behalf of the following class:

[A]ll current and former non-exempt employees who worked for Defendant in California at any time during the Class Release Period [from and including May 10, 2018 through June 8, 2024].

The settlement is also made on of behalf of a PAGA Class of aggrieved employees (“Aggrieved Employees”) who are defined as “all current and former non-exempt employees who worked for Defendant in California at any time during the PAGA Release Period [from and including May 10, 2018, through June 8, 2024].”

1 According to the terms of the settlement, Defendant will pay a gross settlement amount  
2 of \$9,700,000. The agreement provides that the gross settlement amount may be increased  
3 proportionately if the actual number of pay periods is determined to be incorrect by more than  
4 ten percent. The gross settlement amount includes attorney fees up to 1/3 of the gross settlement  
5 amount (currently estimated to be \$3,233,333.33), litigation costs not to exceed \$75,000, a  
6 PAGA allocation of \$970,000 (75 percent of which will be paid to the LWDA and 25 percent of  
7 which will be paid to Aggrieved Employees as individual PAGA payments), class representative  
8 enhancement awards in the total amount of \$60,000 (\$20,000 each), and settlement  
9 administration costs not to exceed \$30,000. The net settlement amount will be distributed to  
10 participating class members on pro rata basis according to the number of workweeks they were  
11 employed by Defendant. Checks remaining uncashed more than 180 days after mailing will be  
12 void and the funds from those checks will be distributed equally to the following *cy pres*  
13 recipients: Legal Aid at Work; WorkSafe, Inc.; and California Rural Legal Assistance. The court  
14 approves the designated *cy pres* recipients.<sup>3</sup>

15 In exchange for the settlement, the class members agree to release Defendant and related  
16 entities and persons from all claims that were or could have been asserted in the SACC based on  
17 the facts pleaded in the SACC occurring during the Class Release Period. Aggrieved Employees  
18 agree to release Defendant and related entities and persons from all claims for PAGA civil  
19 penalties that were or could have been alleged based on facts pleaded in the SACC or the notice  
20 letters sent to the LWDA.

21 In its August 15, 2024, order granting preliminary approval of the settlement, the  
22 approved ILYM Group, Inc. (“ILYM”), as settlement administrator. On September 6, 2024,  
23 Defense counsel provided ILYM with the class data file, including the class list containing 7,394  
24 individuals. (Declaration of Nick Castro (“Castro Decl.”), ¶ 5.) On October 3, 2024, ILYM

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26 <sup>3</sup> Code of Civil Procedure section 384 requires that the unpaid residue or abandoned class  
27 member funds be paid to “nonprofit organizations or foundations to support projects that will  
28 benefit the class or similarly situated persons, or that promote the law consistent with the  
objectives and purposes of the underlying cause of action, to child advocacy programs, or to  
nonprofit organizations providing civil legal services to the indigent.”

1 caused the notice packets to be mailed to all 7,394 individuals on the class list. (*Id.* at ¶ 7.) As of  
2 the date of Mr. Castro’s declaration, January 24, 2025, 40 notice packets have been deemed  
3 undeliverable. (*Id.* at ¶ 10.) The deadline to request exclusion or submit a written objection was  
4 November 18, 2024. As of January 24, 2025, ILYM has not received any requests for exclusion  
5 or objections to the settlement. (*Id.* at ¶¶ 11-12.) According to the settlement administrator’s  
6 calculations, the settlement class members will receive an estimated average payment of  
7 \$726.60. (*Id.* at ¶ 13.) The notice process has now been completed.

8 At preliminary approval, the court found the settlement to be fair and reasonable. Given  
9 that there are no objections, it finds no reason to deviate from that finding now. Accordingly, the  
10 court finds that the settlement is fair and reasonable for purposes of final approval.

#### 11 12 **IV. ENHANCEMENT AWARDS, ATTORNEY FEES AND COSTS**

13 Plaintiffs request enhancement awards in the total amount of \$60,000 (i.e., \$20,000 each).

14 The rationale for making enhancement or incentive awards to named plaintiffs is  
15 that they should be compensated for the expense or risk they have incurred in  
16 conferring a benefit on other members of the class. An incentive award is  
17 appropriate if it is necessary to induce an individual to participate in the suit.  
18 Criteria courts may consider in determining whether to make an incentive award  
19 include: 1) the risk to the class representative in commencing suit, both financial  
20 and otherwise; 2) the notoriety and personal difficulties encountered by the class  
21 representative; 3) the amount of time and effort spent by the class representative;  
22 4) the duration of the litigation and; 5) the personal benefit (or lack thereof) enjoyed  
23 by the class representative as a result of the litigation. These “incentive awards” to  
24 class representatives must not be disproportionate to the amount of time and energy  
25 expended in pursuit of the lawsuit.

26 (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395, internal  
27 punctuation and citations omitted.)

28 Plaintiffs Gines, Rios, and Roldan have each submitted declarations describing their  
participation in this consolidated action. Plaintiff Randy Gines worked for Defendant from 2011  
to 2019. (Declaration of Plaintiff Randy Gines, ¶ 2.) He states that his participation in this action  
has included providing information and documents to his counsel, discussing his claims with

1 counsel, and answering questions. (*Id.* at ¶ 3.) Plaintiff Gines estimates that he has spent  
2 approximately 40 hours in the prosecution of this action. (*Ibid.*)

3 Plaintiff Patricia Rios worked for Defendant from 2020 to 2021. (Declaration of Plaintiff  
4 Patricia Rios, ¶ 2.) She states that her participation in this action has included providing  
5 information and documents to her counsel, discussing her claims with counsel, and answering  
6 questions. (*Id.* at ¶ 3.) Plaintiff Rios estimates that she has spent approximately 40 hours in the  
7 prosecution of this action. (*Ibid.*)

8 Plaintiff Karen Roldan states that she worked for Defendant from 2015 to 2021.  
9 (Declaration of Plaintiff Karen Roldan [filed on July 23, 2024], ¶ 5.) She states that her  
10 participation in this action has included gathering documents regarding her employment,  
11 reviewing documents with her attorneys, and answering questions and providing information  
12 regarding the duties of other employees. (*Id.* at ¶ 12.) Plaintiff Roldan estimates that she has  
13 spent approximately 42 hours in the prosecution of this action. (*Ibid.*) Plaintiff Roldan has also  
14 submitted a supplemental declaration further describing her claims in this action. (Declaration of  
15 Plaintiff Karen Roldan [filed January 28, 2025], ¶ 13.) There, she asserts that the negotiated  
16 enhancement award amount of \$20,000 is reasonable in her case because she is relinquishing  
17 claims of at least \$18,000 in waiting time penalties. (*Ibid.*)

18 Each of the Plaintiffs each spent time in connection with this litigation and additionally  
19 took risk by attaching their names to this case because it might impact their future employment.  
20 (See *Covillo v. Specialty's Café* (N.D.Cal. 2014) 2014 U.S.Dist.LEXIS 29837, at \*29 [incentive  
21 awards are particularly appropriate where a plaintiff undertakes a significant “reputational risk”  
22 in bringing an action against an employer].).

23 For the forgoing reasons, the court will approve service awards to Plaintiffs. However,  
24 the court notes that the amount sought for the service awards, in relation to the time spent on the  
25 litigation, is higher than the court has normally awarded in similar situations. Considering further  
26 the declarations of each plaintiff and the declaration of counsel describing in greater detail the  
27 participation of Plaintiff Roldan, the court approves service awards of \$15,000 each to Plaintiffs  
28

1 Gines and Rios, and \$20,000 to Plaintiff Roldan, for a total amount of \$50,000 in approved  
2 service awards.

3 Class counsel seeks an attorney fee award of \$3,233,333.33 (one-third of the gross  
4 settlement amount). (See Motion for Attorneys' Fees, Costs, Administration Costs, and Class  
5 Representative Awards ("Mot."), p. 10.) Counsel contends that the requested attorney fee award  
6 is reasonable under the common-fund doctrine as courts routinely award fees in the amount one-  
7 third of the common fund. (*Id.* at pp. 11-13.) Counsel further contends that the requested fee  
8 award is supported by the results achieved, the class response, and the contingent risk assumed  
9 by counsel. (*Id.* at pp. 13-17.) Counsel also contends that a lodestar cross-check confirms that the  
10 fee request is reasonable. (*Id.* at pp. 17-21.) Plaintiffs' counsel asserts that their lodestar in this  
11 action is \$1,105,198. (*Id.* at p. 19:6-8.) Attorney Dennies Hyun states he has worked  
12 approximately 494 hours on the case and his current billing rate (as of January 1, 2025) is \$900  
13 per hour (i.e., a lodestar amount of approximately \$444,600). (Declaration of Dennis S. Hyun  
14 [filed on January 28, 2025] ("Hyun Decl."), ¶¶ 17-19.) Attorney William Marder states that his  
15 firm has incurred approximately 331 hours in this case, and his current billing rate (as of January  
16 1, 2025) is \$900 per hour (suggesting a lodestar amount of approximately \$297,900).  
17 (Declaration of William L. Marder [filed on January 28, 2025] ("Marder Decl."), ¶¶ 15-16.)  
18 Attorney Mark Yablonovich states that his firm incurred a lodestar amount of \$344,428 based on  
19 approximately 497 hours billed at rates ranging from \$610 per hour to \$950 per hour.  
20 (Declaration of Mark Yablonovich [filed on January 28, 2025] ("Yablonovich Decl."), ¶ 37.)

21 Thus, Plaintiffs' counsel has submitted evidence supporting a lodestar amount of  
22 \$1,086,928. In reference to a proposed fee award of \$3,233,333, this results in a multiplier of  
23 2.97. This is within the range of multipliers that courts typically approve. (See *Wershba*, supra,  
24 91 Cal.App.4th at p. 255 ["[m]ultipliers can range from 2 to 4 or even higher"]; *Vizcaino v.*  
25 *Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051, fn. 6 [stating that multipliers ranging from  
26 one to four are typical in common fund cases].) The benefits achieved by the settlement justify  
27 an award of attorney fees to class counsel. The court finds that the requested attorney fee award  
28

1 is reasonable as a percentage of the common fund and approves an attorney fee award in the  
2 requested amount of \$3,233,333.33.

3 Plaintiffs' counsel requests reimbursement of litigation costs in the amount of \$34,211.73  
4 and they present a itemized lists supporting that figure. (Mot., p. 21:12-20; Hyun Decl., ¶ 20;  
5 Marder Decl., ¶ 17 and Ex. B; Yablonovich, ¶ 40.) This is less than the \$75,000 provided for in  
6 the settlement. Accordingly, the Court finds the requested litigation costs to be reasonable and  
7 therefore approves an award of litigation costs in the requested amount of \$34,211.73. The  
8 settlement administration costs are also approved in the requested amount of \$30,000, which is  
9 the maximum allowed by the settlement. (See Castro Decl., ¶ 14.)

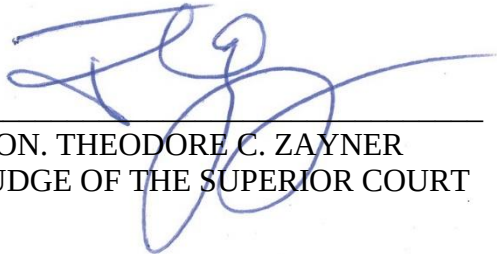
10  
11 **V. CONCLUSION**

12 The motion for final approval of class and representative action settlement is GRANTED.  
13 The class as defined herein is certified for settlement purposes. Judgment shall be entered  
14 through the filing of this order and judgment. (Code Civ. Proc., § 668.5.) Pursuant to Rule  
15 3.769(h) of the California Rules of Court, the Court retains jurisdiction over the parties to  
16 enforce the terms of the settlement agreement and the final order and judgment.

17 The Court sets a compliance hearing for **November 12, 2025 at 2:30 p.m.** in Department  
18 19. At least ten court days before the hearing, class counsel and the settlement administrator shall  
19 submit a summary accounting of the net settlement fund identifying distributions made as  
20 ordered herein; the number and value of any uncashed checks; amounts remitted to the *cy pres*  
21 recipient; the status of any unresolved issues; and any other matters appropriate to bring to the  
22 court's attention. Counsel shall also submit an amended judgment as described in Code of Civil  
23 Procedure section 384, subdivision (b). Counsel may appear at the compliance hearing remotely.

24 **IT IS SO ORDERED**

25  
26 Dated: March 7, 2025

  
HON. THEODORE C. ZAYNER  
JUDGE OF THE SUPERIOR COURT