

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 31

22STCV06536

**GUEYBIN MONTES vs LLOYDS MANUFACTURING
SERVICES, INC.**

August 14, 2024

8:30 AM

Judge: Honorable Kerry Bensinger
Judicial Assistant: Shonda Taylor
Courtroom Assistant: J. Young

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Malcolm Clayton for Joseph Lavi (Telephonic)

For Defendant(s): James R Coelho (Telephonic)

NATURE OF PROCEEDINGS: Hearing on Motion - Other Approval of Private Attorneys
General Act Settlement

The matter is not called for hearing.

The Court's Tentative Ruling is posted online for parties to review.

Counsel for both parties orally submit on the tentative ruling.

The Court having read and considered all documents filed hereto regarding the above-captioned motion, adopts its tentative ruling set forth below as the Final Ruling:

MOTION FOR APPROVAL OF PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT

MOVING PARTY: Plaintiff Gueybin Montes, on behalf of herself and other aggrieved employees

RESPONDING PARTY: No opposition

I. INTRODUCTION

On February 22, 2022, Plaintiff Gueybin Montes filed this action against Defendant Lloyds Manufacturing Services, Inc. dba Calspas for civil penalties under the Private Attorney General Act ("PAGA").

The parties have agreed on the terms of a settlement. Under the proposed settlement, Defendants will pay a Gross Settlement Amount of \$555,000. Of that amount, up to \$185,000 will be paid as attorney fees, \$15,000 will be paid for reimbursement of litigation expenses, up to \$1,000 will be

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paid to Plaintiff as a PAGA Representative Service Payment, and up to \$5,000.00 will be paid to a settlement administrator, leaving a PAGA Settlement Amount of \$349,000. (Clark Decl., Ex. 1.) From the PAGA Settlement Amount, 75 percent (or \$261,750) will be paid to the Labor and Workforce Development Agency (“LWDA”) and 25 percent (or \$87,250/aggrieved employees) will be paid to the aggrieved employees on a pro rata basis.

II. DISCUSSION

A court must review and approve any penalties sought as part of a proposed settlement agreement pursuant to Labor Code section 2699. (Lab. Code § 2699, subd. (l).) “[C]ivil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the Labor and Workforce Development Agency for enforcement of labor laws and 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.” (Lab. Code, § 2699, subd. (i).)

A. Plaintiff Has Provided Notice of the Settlement to LWDA.

A proposed PAGA settlement must be submitted to LWDA at the same time that it is submitted to the court for review and approval. (Lab. Code § 2699, subd. (l)(2).) Plaintiff’s counsel attaches proof that the settlement was submitted to the LWDA on May 31, 2024—before the motion was filed. (Clark Decl., Ex. 3.)

Accordingly, the Court finds that this requirement is satisfied.

B. The Settlement is Entitled to a Presumption of Fairness.

A presumption of fairness for a settlement agreement exists where: (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1802.) The final factor does not apply to PAGA. (See Arias v. Superior Court (2009) 46 Cal.4th 969, 984 [representative actions under PAGA do not violate the due process rights of “nonparty aggrieved employees who are not given notice of, and an opportunity to be heard”].)

On February 7, 2024, the parties attended an all-day mediation session presided over by the Hon. Lisa Cole (Ret.), where they reached a settlement. (Clark Decl., ¶¶ 18, 19.) The settlement was

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therefore reached through arm's-length bargaining.

The parties engaged in discovery regarding Defendants' policies, practices, time and pay records of Plaintiff and a sampling of aggrieved employees. (Clark Decl., ¶¶ 16, 17.) Accordingly, there was sufficient investigation to allow counsel and the Court to act intelligently.

Plaintiff's counsel "are experienced litigators who specialize in employment law, with a substantial PAGA and wage and hour class action practice." (Clark Decl., ¶ 57.)

The Court finds that the settlement is entitled to a presumption of fairness.

C. The Release is Permissible.

If the Court approves the PAGA settlement, the aggrieved employees will release "all claims, rights, demands, liabilities and causes of action that arose during the PAGA Period for civil penalties under PAGA that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice for PAGA civil penalties." On only her own behalf, Plaintiff also waives the protections of Civil Code section 1542. This release is limited to claims for civil penalties that arise from or relate to allegations in Plaintiff's Complaint in this action, and it is permissible.

D. The Attorney Fees and Costs Are Reasonable.

A prevailing employee is entitled to an award of reasonable attorney fees and costs incurred in the action. (Lab. Code, § 2699, subd. (g)(1).) Plaintiff's counsel will receive up to 33.33% of the PAGA Settlement Amount for attorney fees (estimated at \$185,000) and up to \$15,000 in costs and expenses from the PAGA Settlement Amount. (Clark Decl., Ex. 1.)

The Court finds that the attorney fees and costs are reasonable.

III. CONCLUSION

The motion for approval of PAGA settlement is GRANTED.

Order to Show Cause Re: PAGA Settlement Administrative Report is set for 10/11/24 at 9:00 AM in Department 31 at Stanley Mosk Courthouse.

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Deputy Sheriff: None

Moving party to give notice.

*****END OF TENTATIVE RULING *****

The Motion for Final Approval of Settlement filed by Gueybin Montes on 07/12/2024 is
Granted.

On the Court's own motion, the Order to Show Cause Re: Dismissal (Settlement) scheduled for
10/11/2024 is advanced to this date and vacated.

Order to Show Cause Re: PAGA Settlement Administrative Report is scheduled for 10/11/2024
at 09:00 AM in Department 31 at Stanley Mosk Courthouse.

Moving party to give notice.