

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 48

22STCV34375

IRENE RIOS vs SAMARITANA MEDICAL CLINIC INC., et al.

January 16, 2024

8:30 AM

Judge: Honorable Thomas D. Long
Judicial Assistant: Emily Ma Reyes
Courtroom Assistant: Sandra Brown

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): Michael I. Schiller (via CourtConnect) (Telephonic)

NATURE OF PROCEEDINGS: PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT

Department 48 is dark today due to the Court experiencing illness.

There is no appearance by or for the Plaintiff.

Defendant's Counsel submits on the Tentative Ruling issued by the Court.

The Tentative Ruling is adopted as the Final Ruling of the Court.

The PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT filed by Irene Rios on 12/20/2023 is Granted.

On October 26, 2022, Plaintiff Irene Rios filed this action against Defendants Samaritana Medical Clinic, Inc., Providers Medical Management, Inc., and William A. Martinez for penalties under the Private Attorney General Act ("PAGA").

The parties have agreed on the terms of a settlement. Under the proposed settlement, the Defendants will pay a Gross Settlement Amount of \$150,000.00. Of that amount, \$30,000.00 will be paid directly to PAGA Counsel and the Plaintiff, leaving a PAGA Settlement Amount of \$120,000.00. (Declaration of Messrelian, Exhibit 1 at p. 5, ¶3.1.) From the PAGA Settlement Amount, up to 33% will be paid as attorney fees, up to \$5,000.00 will be paid as costs, and up to \$4,864.21 will be paid to a settlement administrator. Of the remaining amount, 75-percent will be paid to the Labor and Workforce Development Agency ("LWDA") and 25-percent will be paid to the aggrieved employees on a pro rata basis.

A Court must review and approve any penalties sought as part of a proposed settlement

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agreement pursuant to Labor Code §2699. (Labor Code §2699, subd.[1].) “[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.” (Labor 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. (Labor Code §2699, subd.[1][2].) Plaintiff’s Counsel attaches proof that the settlement was submitted to the LWDA at the same time the motion was filed. (Declaration of Messrelian, Exhibit 2.)

Accordingly, the Court finds that this requirement is satisfied.

b. 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 September 19, 2023, the Parties attended a full day mediation session with 16 experienced mediator Hon. Frederick P. Aguirre, where they reached a settlement. (Declaration of Messrelian, ¶9.) The settlement was therefore reached through arm’s-length bargaining.

The parties engaged in discovery regarding the Defendants’ policies, practices, operations, time and payroll information, the Plaintiff’s personnel file (including time and payroll data for the Plaintiff), and the time records and payroll records for a group of 25 employees (21% sample) who were within the PAGA period. (Declaration of Messrelian, ¶¶9 - 10.) Accordingly, there was sufficient investigation to allow Counsel and the Court to act intelligently.

There is no information about Counsel’s experience in similar litigation. However, the Court

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takes Judicial Notice of the fact that Plaintiff's Counsel was also Counsel of record in at least two other PAGA cases, Case Nos. 21STCV41387 and 21STCV43225, in this department.

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

c. Release is Permissible

If the Court approves the PAGA settlement, the aggrieved employees will release "any and all claims that were made or could have been asserted in the Action." On only her own behalf, the Plaintiff also waives the protections of Civil Code §1542.

This release is limited to claims for civil penalties that arise from or relate to allegations in the Plaintiff's Complaint in this action, and it is permissible.

d. Attorney Fees and Costs are Reasonable

A prevailing employee is entitled to an award of reasonable attorney fees and costs incurred in the action. (Labor Code §2699, subd.[g][1].) Plaintiff's Counsel will receive up to 33% of the PAGA Settlement Amount for attorney fees (estimated at \$40,000.00) and up to \$5,000.00 in costs and expenses from the PAGA Settlement Amount. (Declaration of Messrelian, Exhibit 1, ¶3.2.1.)

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

e. Conclusion

Accordingly, the Motion for Approval of PAGA settlement is hereby Granted.

The Court orders William A. Martinez, Samaritana Medical Clinic Inc. and Providers Medical Management, Inc. in Amended Complaint (1st) filed by Irene Rios on 02/23/2023 dismissed with prejudice.

The Court retains jurisdiction to make orders to enforce any and all terms of settlement, including judgment, pursuant to Code of Civil Procedure Section 664.6.

The following event(s) is/are advanced to this date and vacated:

02/08/2024 8:30 AM Order to Show Cause Re: Dismissal (Settlement) pursuant to PAGA in

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Clerk is to give notice.

Certificate of Mailing is attached.