

SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE

Visalia Division
221 S Mooney Blvd, Room 201
Visalia, CA 93291
559.730.5000

10/10/2024

STEPHANIE CAMERON, CLERK

Holly Bilbrey, Deputy

Feliciano, Pablo Reyes
Plaintiff/Petitioner,

vs.

Moons, John
Defendant/Respondent.

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) Case No. VCU292586
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CLERK'S CERTIFICATE OF SERVICE

I certify that I am not a party to this cause.

I certify that I caused the Minute Order dated October 10, 2024 to be served on the persons listed below in the following manner:

☒ BY MAIL: I placed the documents for collection and mailing on the date shown, so as to cause it to be mailed in a sealed envelope with postage fully prepaid on that date following standard court practices to the persons and addresses shown. The mailing and this certification occurred at Visalia, California on October 10, 2024.

☐ BY EMAIL: I transmitted the documents by electronic-mail to the parties designated email address on the date shown. The email and this certification occurred at Visalia, California on October 10, 2024.

☐ BY INTEROFFICE MAIL: I transmitted the documents by interoffice mail to the parties designated location on the date shown. The interoffice mailing and this certification occurred at Visalia, California on October 10, 2024.

STEPHANIE CAMERON,
CLERK OF THE SUPERIOR COURT
COUNTY OF TULARE


By
Holly Bilbrey, Deputy Clerk

Names and Mailing/E-Mail Address of Person(s) Served:

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SUPERIOR COURT OF CALIFORNIA COUNTY OF TULARE			
Feliciano, Pablo Reyes Plaintiff/Petitioner, vs. Moons, John Defendant/Respondent.	Judicial Officer: David Mathias Clerk: Holly Bilbrey Bailiff: J Devora CSR: Estela Casillas Interpreter: Language:		
Minutes: Motion Hearing Other Date: October 10, 2024	Case No. VCU292586 Department 01 Related Cases:		

Appearances: ☒ No Appearances

☐ Party: _____

☐ Remote Appearance

☐ Attorney: _____

☐ Remote Appearance

Case is called at 9:55 AM:

No request for oral argument.

The Court adopts the Tentative Ruling as follows:

Motion: Motion for Preliminary Approval of PAGA Settlement

Ruling: To grant the motion and set a final compliance hearing as to distribution of the net settlement fund to the LWDA and Aggrieved Employees on April 24, 2025; D1; 8:30 am.

Background Facts

Following the Court's entry of an order upon the stipulation of the parties as to arbitration of Plaintiff's non-PAGA and individual, Type A PAGA claims, the Court stayed this matter as to the representative, Type O PAGA claims. (See Galarsa v. Dolgen California, LLC (2023) 88 Cal.App.5th 639, 648, 649 as to the Type A and Type O labels.)

Prior to agreeing to arbitration, the Parties agreed to participate in a full-day mediation. Plaintiff propounded informal discovery requests to Defendant in anticipation of the mediation pertaining to Plaintiff and the other aggrieved employees' time and pay records amongst other information and documents in order to allow for Plaintiff's counsel to investigate Plaintiff's allegations and value the PAGA claim.

On May 4, 2023, the Parties participated in a mediation and while the Parties did not reach a settlement, in the months that followed, the Parties engaged in formal discovery through arbitration and further settlement discussions, eventually leading to a tentative settlement of the PAGA claim remaining here.

1. Sufficiency of Amount of Settlement (Proposed Net Distribution To Employees: \$4,401.20.)

The gross settlement amount is \$50,000.

Plaintiff estimates approximately 76 aggrieved employees, consisting all of John Moons dba Moonlight Dairy's non-exempt employees who worked for John Moons dba Moonlight Dairy in California at any time from July 19, 2021 to April 15, 2024

In deciding whether to grant approval of the proposed PAGA settlement, the primary issues to be decided is whether the settlement is fair, adequate, and reasonable. (Moniz v. Adecco USA, Inc. (2021) 72 Cal.App.5th 56, 77.) "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." (Id.) "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." (Id. citing O'Connor v. Uber Technologies, Inc. (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1133.)

Plaintiff's counsel provides estimates of the maximum PAGA penalty liability of \$230,000 (2,300 pay periods at issue × \$100 per violation = \$230,000.) Plaintiff believes it is reasonable to estimate a recovery of 35% of the maximum possible recoverable penalties, or \$80,500. Therefore, the settlement in the matter is approximately 62.1 of the realistic maximum exposure in this matter. The motion adequately sets forth the relative strength and value of the PAGA claim as well as the risks, expense, complexity and likely duration of further litigation. Additionally, Plaintiff notes that PAGA penalties are subject to the Court's discretion as to willfulness.

As noted above, the parties reached gross settlement figure of \$50,000 after mediation and further formal discovery in anticipation of mediation.

Plaintiffs' deductions from the gross settlement of \$50,000 are proposed as follows:

Proposed Attorney Fees (35%):	\$ 17,500.00
Proposed Attorney Costs (expended):	\$ 9,395.18
Proposed Enhancement Payment to Plaintiff	\$1,000.00
Proposed Administrative Costs	\$ 4,500.00
Net Settlement Fund	\$ 17,604.82
LWDA Share (75% of Net Settlement Fund)	\$ 13,203.62
Aggrieved Employee Share (25% of Net Settlement Fund):	\$ 4,401.20

The Court finds the gross settlement amount fair, adequate, and reasonable under Moniz as noted above.

2. Notice

There is no notice period. The proposed notice adequately informs the aggrieved employees of adequate details regarding the case and distribution of their portion of the net settlement fund.

3. Attorneys' Fees and Costs

Attorneys' fees of 35% of the gross settlement fund of \$50,000 or \$17,500.00 and approval of incurred costs of \$9,395.18 are sought by Plaintiff's counsel.

Counsel has utilized the percentage of common fund methodology as well as provided adequate lodestar information to evaluate the reasonableness of the fee request.

Here, Counsel indicates that the firm has spent 65.2 hours on this case at the rate of \$878 per hour totaling a lodestar of \$57,245.60. (Declaration of Flores ¶24.)

Counsel has also provided the current costs expended in amounts of \$9,395.18. (Declaration of Flores ¶26.)

The Court approves the requested fees and costs.

4. Claims Administrator

The claims administrator is designated as Apex Class Action LLC who has submitted a bid for \$4,500 to administer the settlement. The Court approves the claims administrator.

5. Unclaimed Settlement Proceeds

The court approves the distribution of unclaimed settlement proceeds to Visalia Rescue Mission, in accordance with Code of Civil Procedure section 384.

6. Release

The Court finds the proposed limited release of PAGA claims reasonable and within the law under a PAGA only settlement as to the aggrieved employees. (Arias v. Sup. Ct., (2009) 46 CA4th 969, 986-987.)

7. LWDA Notice

The Court finds confirmation from the LWDA of receipt of proof of submission of the proposed settlement agreement. (Lab. Code, § 2699, subd. (l)(2).) (Declaration of Flores – Ex. B.)

The Court, therefore, grants the motion and sets a final compliance hearing as to distribution of the net settlement fund to the LWDA and Aggrieved Employees on April 24, 2025; D1; 8:30 am.

If no one requests oral argument, under Code of Civil Procedure section 1019.5(a) and California Rules of Court, rule 3.1312(a), no further written order is necessary. The minute order adopting this tentative ruling will become the order of the court and service by the clerk will constitute notice of the order.