

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

CALVIN HONG,

Plaintiff,

v.

ANALOG DEVICES, INC., et al.,

Defendants.

Case No.: 20CV369017

**ORDER CONCERNING PLAINTIFF’S
MOTION FOR FINAL APPROVAL OF
CLASS/PAGA SETTLEMENT AND
JUDGMENT**

This is a putative class and Private Attorneys General Act (“PAGA”) action. Plaintiff Calvin Hong alleges that Defendant Analog Devices, Inc. failed to compensate employees for off-the-clock work, improperly rounded their time, improperly calculated overtime and sick leave pay, and committed other wage and hour violations.¹

The parties reached a settlement, which the Court preliminarily approved in an order filed on January 30, 2023. The factual and procedural background of the action and the Court’s analysis of the settlement and settlement class are set forth in that order.

Before the Court is Plaintiff’s motion for final approval of the settlement, attorney fees, costs, and incentive award. Plaintiff’s motion is unopposed. The Court issued a tentative ruling

¹ Linear Technology Corporation was also named as a defendant in prior versions of the complaint, and is a party to the settlement agreement.

on July 26, 2023, which no one contested at the hearing on July 27, 2023. The Court now issues its final order, which GRANTS final approval.

I. LEGAL STANDARDS FOR SETTLEMENT APPROVAL

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. [Citation.]” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235 (*Wershba*), disapproved 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, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

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

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

marks omitted.) The trial court also must independently confirm that “the consideration being received for the release of the class members’ claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation.” (*Kullar, supra*, 168 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be “provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise.” (*Id.* at pp. 130, 133.)

B. PAGA

Labor Code section 2699, subdivision (l)(2) provides that “[t]he superior court shall review and approve any settlement of any civil action filed pursuant to” PAGA. The court’s review “ensur[es] that any negotiated resolution is fair to those affected. [Citation.]” (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549.) Seventy-five percent of any penalties recovered under PAGA 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) __ U.S. __, 2022 U.S. LEXIS 2940.)

Similar to 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. [Citations.]” (*Id.* at p. 77; see also *Haralson, supra*, 383 F.Supp.3d at p. 971 [“[W]hen 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, 1133 (*O’Connor*).)

The settlement must be reasonable in light of 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, at *8-9.)

II. TERMS AND ADMINISTRATION OF SETTLEMENT

The non-reversionary gross settlement amount is \$2,500,000. Attorney fees of \$833,333.33 (one-third of the gross settlement), litigation costs of \$17,173.01, and \$11,500 in administration costs will be paid from the gross settlement. \$100,000 will be allocated to PAGA penalties, 75 percent of which (\$75,000) will be paid to the LWDA. The named plaintiff seeks an incentive award of \$7,500. Employer-side payroll taxes of \$75,987.05 will also be deducted from the settlement.

The net settlement will be allocated to class members proportionally based on their weeks worked during the class and PAGA periods. Class members will not be required to submit a claim to receive their payments. For tax purposes, settlement payments will be allocated 33.4 percent to wages and 66.6 penalties and interest. Funds associated with checks uncashed after 180 days will be paid to Legal Aid at Work.

In exchange for the settlement, class members who do not opt out will release “any and all claims that were alleged in the Action or which could have been alleged based on the factual allegations asserted in the Action that occurred during the Class Period.” Similarly, the PAGA release encompasses “the claims for civil penalties that could have been sought by the Labor Commissioner for the violations of [PAGA] identified in the Action and/or Plaintiff’s letter to the LWDA, and those based upon the facts alleged in the Action and/or letter to the LWDA during the PAGA Period.” Consistent with the statute, aggrieved employees will not be able to opt out of the PAGA portion of the settlement.

1 The notice process has now been completed. There were no objections to the settlement
2 and no requests for exclusion from the class. Of the 747² total notices mailed by the
3 administrator, 23 notices were returned, 15 notices were re-mailed to updated addresses, and 8
4 notices were ultimately undeliverable. The administrator estimates that the average payment to
5 Participating Class Members will be \$2,683.59,³ with a high payment of \$5,881.56.

6 At preliminary approval, the Court found that the settlement is a fair and reasonable
7 compromise of the class claims. It finds no reason to deviate from this finding now, especially
8 considering that there are no objections. The Court thus finds that the settlement is fair and
9 reasonable for purposes of final approval.

10 **III. ATTORNEY FEES, COSTS, AND INCENTIVE AWARD**

11 Plaintiff seeks a fee award of \$833,333.33, one-third of the gross settlement, which is not
12 an uncommon contingency fee allocation in a wage and hour class action. This award is facially
13 reasonable under the “common fund” doctrine, which allows a party recovering a fund for the
14 benefit of others to recover attorney fees from the fund itself. Plaintiff also provides a lodestar
15 figure of \$635,080 based on 945.8 hours spent on the case by counsel billing at hourly rates of
16 \$450-\$850 per hour. Plaintiff’s request results in a modest multiplier of 1.31. The lodestar
17 cross-check supports the percentage fee requested, particularly given the lack of objections to the
18 attorney fee request. (See *Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 488, 503-504
19 [trial court did not abuse its discretion in approving fee award of 1/3 of the common fund, cross-
20 checked against a lodestar resulting in a multiplier of 2.03 to 2.13].)

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22
23 ² There are 542 Participating Class Members entitled to a share of the Net Settlement Amount,
24 603 Aggrieved Employees entitled to a share of the PAGA Payment, and 747 unique individuals
25 across both these categories.

26 ³ The Motion and Declaration of Jennifer Forst [] stated that the estimated average payment was
27 \$1,980.60 (see Motion at p. 16; Declaration of Jennifer Forst [] at ¶¶ 13-14), but counsel
28 confirmed at the hearing that this was mistakenly calculated based on 747 total class members
instead of the 542 Participating Class Members, and that the approximate average payment was
\$2,683.59.

1 Plaintiff's counsel also requests \$17,173.01 in litigation costs, below the amount
2 estimated at preliminary approval. Plaintiff's costs appear reasonable based on the summary
3 provided and are approved. The \$11,500 in administrative costs are also approved.

4 Finally, the named plaintiff seeks an incentive award of \$7,500. To support his request,
5 he submits a declaration describing his efforts on the case. The Court finds that the class
6 representative is entitled to an incentive award and the amount requested is reasonable.

7 **IV. ORDER AND JUDGMENT**

8 In accordance with the above, IT IS HEREBY ORDERED, ADJUDGED, AND
9 DECREED THAT:

10 The motion for final approval of the settlement, attorney fees, costs, and incentive award
11 is GRANTED. The following class is certified for settlement purposes:

12 All Analog Devices, Inc.'s ("Defendant") current and former non-exempt
13 employees in California beginning April 6, 2016 through December 31, 2022,
14 unless shortened at Defendant's option pursuant to section III(C)(5) of the
15 Settlement Agreement, excluding those former employees who signed separate
16 individual severance and release agreements covering the claims alleged in this
17 matter.

18 No one otherwise included in this definition is excluded from the class.

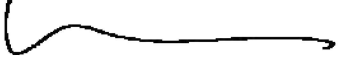
19 Judgment shall be entered through the filing of this order and judgment. (Code Civ.
20 Proc., § 668.5.) Plaintiff and the members of the class shall take from their operative complaint
21 only the relief set forth in the settlement agreement and this order and judgment. Pursuant to
22 Rule 3.769(h) of the California Rules of Court, the Court retains jurisdiction over the parties to
23 enforce the terms of the settlement agreement and the final order and judgment.

24 The Court sets a compliance hearing for **March 14, 2024 at 2:30 p.m.** in Department 1.
25 At least ten court days before the hearing, class counsel, and the settlement administrator shall
26 submit a summary accounting of the net settlement fund identifying distributions made as
27 ordered herein; the number and value of any uncashed checks; amounts remitted to Legal Aid at
28 Work; the status of any unresolved issues; and any other matters appropriate to bring to the

1 Court's attention. Counsel shall also submit an amended judgment as described in Code of Civil
2 Procedure section 384, subdivision (b). Counsel may appear at the compliance hearing remotely.

3 **IT IS SO ORDERED.**

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5 Date: 7/28/2023



6 The Honorable Sunil R. Kulkarni
7 Judge of the Superior Court
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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is shanneyan@justicelawcorp.com

On July 31, 2023, I served the foregoing document described as

**ORDER CONCERNING PLAINTIFF'S MOTION FOR FINAL APPROVAL OF
CLASS/PAGA SETTLEMENT AND JUDGMENT**

for the following case: **Hong v. Analog Devices, Inc., et al.**
LWDA/Court Case No.: **LWDA-CM-906226-22**
Court Case No.: 20CV369017
Santa Clara County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

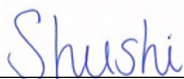
[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 31, 2023, at Pasadena, California.



Sophia Hanneyan