

Filed
February 25, 2025
Clerk of the Court
Superior Court of CA
County of Santa Clara
22CV403416
By: tduarte

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

KAITLIN TALLEY, on behalf of all others
similarly situated,

Plaintiff,

v.

TRAVEL NURSE ACROSS AMERICA, LLC,
an Arkansas limited liability company; and
DOES 1 to 100,

Defendants.

Case No. 22CV403416

**ORDER GRANTING PLAINTIFF'S
MOTION FOR APPROVAL OF PAGA
SETTLEMENT**

This is a representative action under the Private Attorneys General Act ("PAGA").¹
Plaintiff Kaitlin Talley alleges Defendant Travel Nurse Across America, LLC committed various
wage and hour violations and seeks PAGA penalties for those violations.

Before the Court is Plaintiff's motion for approval of PAGA settlement, which is
unopposed. As discussed below, the Court GRANTS the motion.

I. BACKGROUND

According to the allegations of the operative First Amended Complaint ("FAC"),
Defendant failed to: pay wages (overtime, meal, and rest premiums); include certain

¹ Plaintiff's class claims were dismissed on July 24, 2023.

1 renumerations in employees' regular rate; pay full wages during employment and upon
2 termination; and provide complete and accurate wage statements.

3 Based on the foregoing, Plaintiff initiated this action in September 2022, and filed the
4 operative FAC on November 8, 2022, asserting claims for civil penalties under PAGA.

5 **II. LEGAL STANDARD FOR APPROVING PAGA SETTLEMENT**

6 Under PAGA, an aggrieved employee may bring a civil action personally and on behalf
7 of other current or former employees to recover civil penalties for Labor Code violations.
8 (*Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 380, overruled on other
9 grounds by *Viking River Cruises, Inc. v. Moriana* (2022) ___ U.S. ___, 2022 U.S. LEXIS 2940.)
10 75 percent of any penalties recovered go to the Labor and Workforce Development Agency
11 (LWDA), leaving the remaining 25 percent for the employees. (*Ibid.*) PAGA is intended "to
12 augment the limited enforcement capability of [LWDA] by empowering employees to enforce
13 the Labor Code as representatives of the Agency." (*Id.* at p. 383.) A judgment in a PAGA
14 action binds all those, including nonparty aggrieved employees, who would be bound by a
15 judgment in an action brought by the government. (*Id.* at p. 381.)

16 Labor Code section 2699, subdivision (l)(2) provides that "[t]he superior court shall
17 review and approve any settlement of any civil action filed pursuant to" PAGA. The court's
18 review "ensur[es] that any negotiated resolution is fair to those affected." (*Williams v. Superior*
19 *Court* (2017) 3 Cal.5th 531, 549.) "[C]lass certification is not required" in this context as in a
20 class action. (*Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383 F. Supp. 3d 959, 971
21 (*Haralson*).)

22 Similar to its review of class action settlements, the Court must "determine
23 independently whether a PAGA settlement is fair and reasonable," to protect "the interests of the
24 public and the LWDA in the enforcement of state labor laws." (*Moniz v. Adecco USA, Inc.*
25 (2021) 72 Cal.App.5th 56, 76–77 (*Moniz*).) It must make this assessment "in view of PAGA's
26 purposes to remediate present labor law violations, deter future ones, and to maximize
27 enforcement of state labor laws." (*Id.* at p. 77; see also *Haralson, supra*, 383 F. Supp. 3d at
28 p. 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 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.)

III. PLAINTIFF’S INVESTIGATION, SETTLEMENT PROCESS, AND THE PARTIES’ AGREEMENT

After Plaintiff initiated this action and filed her FAC, Defendant filed a motion to dismiss the class claims, compel arbitration of individual claims, and stay of non-individual PAGA claims and the entire action. The parties began arbitrating Plaintiff’s individual claims from August 4, 2023 until April 25, 2024, when they agreed to return to court to litigate Plaintiff’s PAGA action. The parties engaged in formal and informal discovery. On September 18, 2024, the parties participated in an all-day mediation session with Monique Ngo-Bonnici, a respected wage and hour mediator, and they reached an agreement to settle this matter.

Pursuant to the parties’ agreement, Defendants will pay a non-reversionary gross settlement of \$850,000, which is comprised of \$297,500 in attorneys’ fees, \$15,000 in litigation expenses, and \$7,987 in administration costs. The \$528,013 in PAGA penalties will be distributed 75% (\$396,009.5) to the LWDA and 25% (130,003.25), on a pro rata basis, to “Aggrieved Employees,” who are defined as “[a]ll hourly non-exempt employees of Defendant employed in California during the Relevant Time Period of September 2021, through December 18, 2024, or the date of Court approval of the settlement, whichever comes first.” It is estimated there are approximately 1,470 Aggrieved Employees and 41,889 pay periods through September 18, 2024; this results in an average payment to each employee of \$88.43.

1 In exchange for settlement, Plaintiff will release:

2
3 [A]ll claims pled or that could have been pled in the First Amended Complaint for
4 Santa Clara Superior Court Case No. 22CV403416 (“Complaint”) pursuant to
5 Labor Code Private Attorneys’ General Act (“PAGA”), California Labor Code §§
6 2698, et seq., deriving from and/or based on the facts alleged in the Complaint
7 and Plaintiff’s PAGA letter, arising out of or related to services to or work
8 performed for TNAA during the PAGA Period upon approval of the settlement,
9 including claims for penalties, interests, attorneys’ fees and/or costs. The release
10 shall encompass all claims, causes of action or liability pursuant to PAGA,
11 including but not limited to any penalties based on alleged violations of the IWC
12 Wage Orders or California Labor Code sections §§ 201, 202, 203, 204, 226,
13 226.3, 226.7, 246, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 2698, 2699,
14 and 2810.5. The settlement shall be effective to adjudicate and release the claims
15 and/or rights of the LWDA to recover civil penalties against TNAA for the
16 released Labor Code and/or Wage Order violations suffered by any of the
17 Aggrieved Employees (i.e., entry of Judgment shall have res judicata effect as to
18 those claims of the LWDA, whether pursued directly by the LWDA or by a
19 representative pursuant to PAGA.) The release shall include TNAA, and its
20 owners, agents, attorneys, insurers, past, present, and future divisions, DBA (if
21 any), predecessors, successors, shareholders, officers, directors, managers,
22 employees, trustees, representatives, administrators, fiduciaries, assigns,
23 subrogees, executors, partners, parents, subsidiaries, healthcare facility clients,
24 any and all facilities where any Aggrieved Employees performed work for
25 TNAA, any and all entities that operate those facilities, any and all alleged joint
26 employers, privies, and/or any and all persons and/or corporate entities acting by,
27 through, under or in concert with any of them.
28

1 Aggrieved Employees and the LWDA will release:

2
3 All claims for PAGA claims that were alleged, or reasonably could have been
4 alleged, based on the facts stated in the Complaint and the PAGA Notice, and
5 alleged in the Action, including but not limited to claims for all alleged Labor
6 Code and Wage Order violations specified therein. The settlement shall be
7 effective to adjudicate and release the claims and/or rights of the LWDA to
8 recover civil penalties against TNAA for the released Labor Code and/or Wage
9 Order violations suffered by any of the Aggrieved Employees (i.e., entry of
10 Judgment shall have res judicata effect as to those claims of the LWDA, whether
11 pursued directly by the LWDA or by a representative pursuant to PAGA).

12 These releases are appropriately tailored to the allegations at issue, and do not release any
13 claims other than those for PAGA penalties. (See *Amaro v. Anaheim Arena Management,*
14 *LLC* (2021) 69 Cal.App.5th 521, 537; *Moniz, supra*, 72 Cal.App.5th at p. 82 [release of “all
15 known and unknown claims under PAGA ... that were or could have been pled based on the
16 allegations of the Complaint” was appropriately approved].)

17 **IV. DISCUSSION**

18 **A. Potential Verdict Value**

19 In the FAC, Plaintiff asserts six causes of action for PAGA penalties based on
20 Defendant’s alleged failure to (1) pay all wages, (2) pay sick pay at the correct regular rate, (3)
21 pay minimum wages, (4) provide accurate wage statements, and (5) pay wages at the time of
22 termination or upon resignation.

23 Based on figures provided by Defendants- 1,470 Aggrieved Employees and 41,889 pay
24 periods during the relevant time periods-Plaintiff calculated Defendants total exposure for PAGA
25 penalties to be \$4,188,900 for claims based on the failure to properly calculate the regular rate of
26 pay; \$147,000 for claims based on off-the-clock violations; \$209,445 for wage statement
27 violations; and \$400 for waiting time penalties. Plaintiff’s counsel then discounted these
28 amounts to account for the following risk: the limited prevalence of non-taxable per diems,

1 uncertainty surrounding the proper treatment of estimated expense reimbursements; factual
2 disputes regarding whether employees were actually compensated for training time; variations in
3 the actual time spent by different employees completing tasks; disputes about when the
4 employment relationship legally began; whether some claims derived from others; and whether
5 Plaintiff could establish liability for wage statement violations. Thus, Plaintiff estimates the
6 adjusted maximum for PAGA penalties is \$1,062,325.

7 The settlement amount of \$850,000 represents approximately 80% of the adjusted PAGA
8 penalties. Given this, as well as the risks attendant to proceeding to trial, establishing knowing
9 and intentional violations, the expenses and uncertainty of a prolonged trial, and the risk that the
10 likelihood that PAGA penalties would be significantly reduced in line with numerous appellate
11 decisions, the Court finds that the proposed settlement is fair to those affected and is genuine,
12 meaningful, and reasonable in light of the statute's purposes.

13 **B. Attorney Fees**

14 While the PAGA statute does not expressly require judicial review of claimed attorney
15 fees, the Court believes it cannot adequately fulfill its statutory duty to review the penalties
16 associated with PAGA settlements without also considering attorney fees. The Court thus finds
17 that it must scrutinize the attorney fee arrangement associated with a PAGA settlement. This is
18 consistent with the observation of many courts that PAGA claims are analogous to "*qui tam*"
19 suits like those under the federal False Claims Act: when reviewing settlements of *qui tam*
20 claims, courts should and do consider any associated attorney fee arrangement. (See *U.S. v.*
21 *Texas Instruments Corp.* (9th Cir. 1994) 25 F.3d 725, 728 [attorney fee award must be
22 considered by the trial court as part of its review of the "entire settlement arrangement"].)

23 As articulated above, Plaintiff seeks a fee award of \$297,500. Plaintiff submits a lodestar
24 figure of \$231,582.50 based on 347.77 hours worked at billing rates of \$75 to \$850, resulting in
25 a positive multiplier of 1.28. This is within the range of multipliers that courts typically approve.
26 (See *Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 488, 503–504 (*Laffitte*) [trial court
27 did not abuse its discretion in approving fee award of 1/3 of the common fund, cross-checked
28 against a lodestar resulting in a multiplier of 2.03 to 2.13]; *Wershba v. Apple Computer, Inc.*

(2001) 91 Cal.App.4th 224, 255 “[m]ultipliers can range from 2 to 4 or even higher”]; *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051, fn. 6 [stating that multipliers ranging from one to four are typical in common fund cases and citing the court’s own survey of large settlements finding “a range of 0.6–19.6, with most (20 of 24, or 83%) from 1.0–4.0 and a bare majority (13 of 24, or 54%) in the 1.5–3.0 range”].)

While this award is 35% of the common fund which slightly higher than the 33.33% often requested, given the significant amount of work performed by Plaintiff’s counsel, the novelty and difficulty of the case and because the requested multiplier sought by them is within the range of multipliers regularly approved by California courts in similar actions, the Court finds counsel’s requested fee award is reasonable and therefore it is approved.²

C. Other Costs and Expenses

Counsel’s request for litigation costs of \$11,825.55 appears reasonable based on the supporting declarations provided which establish that counsel actually incurred costs in this amount and is approved. Administration costs of \$7,987 are also approved.

Finally, the Court finds that the named plaintiff is entitled to an enhancement award. The rationale for such awards in class actions is that named plaintiffs “should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class,” considering the “1) the risk to the class representative in commencing suit, both financial and otherwise; 2) the notoriety and personal difficulties encountered by the class representative; 3) the amount of time and effort spent by the class representative; 4) the duration of the litigation; and 5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation.” (Cellphone Termination Fee Cases (2010) 186 Cal.App.4th 1380, 1394-1395 [internal citations and quotations omitted].) These considerations apply equally in the PAGA context.

Applying the relevant factors, the Court finds that an enhancement award of \$1,500, which is adequately supported by the declaration provided by the named plaintiff, is appropriate.

² 33.33% of the settlement would be \$283,333.33.

1 **V. ADMINISTRATION PROCESS**

2 Pursuant to the terms of the Settlement Agreement, within 30 days of Court approval of
3 its terms, Defendants will provide settlement administrator Rust Consulting, Inc. (“Rust”) with
4 the Aggrieved Employee Data, which contains identifying information such as the employees
5 name, last known mailing address, social security number, and number of PAGA pay periods.
6 Within 14 days after the funding of the settlement, Rust will mail checks for all individual
7 PAGA payments, the LWDA payment, the administration expenses payment, the PAGA counsel
8 expenses payment, and the representative service payment. Disbursement of the PAGA counsel
9 litigation expenses payment and PAGA counsel fees payment shall not precede the disbursement
10 of individual PAGA payments. Each Aggrieved Employee will be sent a check in the
11 appropriate amount. Any checks returned as non-deliverable will promptly be re-mailed to the
12 forwarding address provided; if none is, Rust will attempt to locate one using a skip trace or
13 other search method. Any checks returned as undeliverable or that remain uncashed after 180
14 days will be transmitted to the California Controller’s Unclaimed Property Fund in the name of
15 the Aggrieved Employee. These administrative procedures are appropriate and are approved.

16 **VI. ORDER AND JUDGMENT**

17 Plaintiff’s motion for approval of the parties’ PAGA settlement is GRANTED. The
18 covered individuals are: All hourly non-exempt employees of Defendant employed in California
19 during the Relevant Time Period of September 2021, through December 18, 2024, or the date of
20 Court approval of the settlement, whichever comes first.

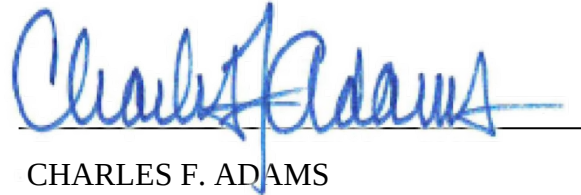
21 Judgment shall be entered through the filing of this order and judgment. (Code Civ.
22 Proc., § 668.5.) Plaintiff and the Aggrieved Employees shall take from the PAGA claim in their
23 FAC only the relief set forth in the parties’ settlement agreement and this order and judgment.
24 The Court retains jurisdiction over the parties to enforce the terms of the PAGA settlement
25 agreement and the final order and judgment.

26 The Court sets a compliance hearing for **October 23, 2025 at 2:30 P.M.** in Department
27 7. At least ten court days before the hearing, Plaintiff’s counsel and the settlement administrator
28 shall submit a summary accounting of the net settlement fund identifying distributions made as

ordered herein; the number and value of any uncashed checks; amounts remitted the Unclaimed Property Fund; the status of any unresolved issues; and any other matters appropriate to bring to the Court's attention. Counsel may appear at the compliance hearing remotely.

IT IS SO ORDERED.

Date: February 25, 2025



CHARLES F. ADAMS
Judge of the Superior Court