

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE**

Pearson, Sidnei
Plaintiff/Petitioner,

vs.

Torrid LLC
Defendant/Respondent.

Jud. Officer: **Gary Johnson**
Clerk: **Lisa Weisenborn**
Bailiff: **A Gonzales**
CSR: **Naomi Johnson**
Interpreter:
Language:

Minutes: **Motion Hearing**
Other
Date: **December 23, 2024**

Case No. **VCU294831**
Department 07
Related Cases:

Appearances: ☒ No Appearances

- ☐ Party: _____
- ☐ Remote Appearance
- ☐ Party: _____
- ☐ Remote Appearance
- ☐ Party: _____
- ☐ Remote Appearance
- ☐ Other: _____
- ☐ Remote Appearance

- ☐ Attorney: _____
- ☐ Remote Appearance
- ☐ Attorney: _____
- ☐ Remote Appearance
- ☐ Attorney: _____
- ☐ Remote Appearance

Motion: Motion for Approval of PAGA Only Settlement

☒ No requests for oral argument presented.

ORDER: The Court adopts the Tentative Ruling as the Order of the Court as follows:

To grant the motion; to set a final compliance hearing as to distribution of the net settlement fund to the LWDA and Aggrieved Employees on June 30, 2025, Dept. 7, 8:30 am.

1. Sufficiency of Amount of Settlement (Proposed Net Distribution: \$99,070.36.)

The gross settlement amount is \$665,000.

Plaintiff estimates approximately 2,300 aggrieved employees, consisting of all individuals employed by Defendant in California as non-exempt employees at any time from the period of October 21, 2021 through the March 7, 2024 or the last date on which the total number of pay periods was not in excess of 50,812.

The Court notes that the operative first amended complaint alleges a single cause of action under Labor Code section 2699, et seq, the Private Attorney General Act ("PAGA") for violation of Labor Code sections (a) 510 and 1198 (unpaid overtime); (b) 1182.12, 1194, 1197, 1197.1, and 1198 (unpaid minimum wages); (c) 226.7, 512(a), 516, and 1198 (failure to provide meal periods); (d) 226.7, 516, and 1198 (failure to authorize and permit rest periods); (e) 226(a), 1174(d), and 1198 (non-compliant wage statements and failure to maintain accurate payroll records); (f) 204 (failure to timely pay wages during employment); (g) 201 and 202 (failure to timely pay final wages upon termination); (h) 1198 and California code of regulations title 8, section 11070 subdivision 14(a) (failure to provide suitable seating); (i) 1198 and California code of regulations title 8, section 11070 subdivision 14(b) (failure to provide suitable seating); (j) 1198 and California code of regulations title 8, section 11070 subdivision 5(a) (failure to pay reporting time pay); (k) 1198 and California code of regulations title 8, section 11070 subdivision 4(c) (failure to pay split-shift premiums); (l) 2802 (unreimbursed business expenses); and (m) 2810.5(a)(1)(a)-(c) (failure to provide notice of material terms of employment).

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 liability totaling \$4,619,300. Counsel further discusses the potential reduction by the Court of these penalties as to multiple penalties per pay period and other discretionary reductions. 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.

The parties reached gross settlement figure of \$665,000.after mediation.

Plaintiffs’ deductions from the gross settlement of \$665,000.are proposed as follows:

Proposed Attorney Fees (33.3%):	\$ 221,667.00
Proposed Attorney Costs (incurred):	\$ 23,551.55
Proposed Enhancement Award to Plaintiff Pearson:	\$ 5,000.00
Proposed Enhancement Award to Plaintiff Fellows:	\$ 5,000.00
Administrative Costs	\$ 13,500.00
Net Settlement Fund	\$ 396,281.45
 LWDA Share (75% of Net Settlement Fund)	 \$ 297,211.09
Aggrieved Employee Share (25% of Net Settlement Fund):	\$ 99,070.36

The Court finds the gross settlement amount fair, adequate, and reasonable under *Moniz*.

2. Notice

There is no notice period. The proposed notice adequately informs the aggrieved employees of adequate details regarding the case and PAGA settlement.

3. Enhancement Awards to Class Representatives

An enhancement payment of \$5,000 each is proposed to as to Plaintiffs, designated a representatives for settlement purposes. The court has, in past cases, approved enhancement awards of \$5,000 routinely. These awards are therefore approved.

Further, this enhancement payment is consideration for execution of a general release by the Plaintiffs.

4. Attorneys’ Fees and Costs

Attorneys’ fees of 33.3% of the gross settlement fund of \$665,000 or \$221,667.00 and costs incurred of \$ 23,551.55 are sought by counsel for Plaintiffs.

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 291.6 hours at rates ranging from \$950 per hour to \$425, creating a base lodestar of \$186,665. (Declaration of Perez ¶19.) The Court permits a maximum lodestar multiple of 1.5 in these cases. To award the \$221,667 in fees request, the Court would need to apply a multiplier of only 1.19 and therefore the fee request is approved.

Counsel has also provided the current costs expended in amounts of \$ 23,551.55 and these costs are likewise approved. (Declaration of Perez ¶23.)

The Court further finds that Plaintiffs’ counsel are experienced PAGA attorneys through the declaration of counsel.

5. Claims Administrator

The claims administrator is designated as CPT Group who has submitted a bid for \$13,500 to administer the settlement. The Court, based on its prior experience with CPT, approves it as the claim’s administrator.

6. Unclaimed Settlement Proceeds

The court approves the distribution of unclaimed settlement proceeds to the California Secretary of State’s Unclaimed Property Division, in accordance with Code of Civil Procedure section 384.

7. 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.) Further, the Court notes that the "General Release" term as to Plaintiffs is supported by adequate consideration in the form of the enhancement and release payments, which the Court has approved above as \$5,000.

8. LWDA Notice

The Court finds confirmation from the LWDA of receipt of proof of submission of the proposed settlement agreement via the separately filed document. (Lab. Code, § 2699, subd. (1)(2).)

The Court, therefore, grants the motion as proposed by Plaintiffs and sets a final compliance hearing as to distribution of the net settlement fund to the LWDA and Aggrieved Employees on June 30, 2025, Dept. 7, 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.

☒ Clerk to provide notice to parties by mail.

12/23/2024

STEPHANIE CAMERON, CLERK

Lisa Weisenborn, Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE

Visalia Division
221 S Mooney Blvd, Room 303
Visalia, CA 93291
559.730.5000

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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 December 23, 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 December 23, 2024.

STEPHANIE CAMERON,
CLERK OF THE SUPERIOR COURT
COUNTY OF TULARE

By 
Lisa Weisenborn, Deputy Clerk

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

KERRY FRIEDRICHS
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