

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Manuel Diaz
Plaintiff/Petitioner(s)
VS.
Fremont Hospital, Inc. et al
Defendant/Respondent
(s)

No. 22CV019836
Date: 07/29/2025
Time: 10:00 AM
Dept: 23
Judge: Michael Markman

ORDER re: Hearing on Motion -
Other Motion to Approve
PAGA Settlement; filed by
Manuel Diaz (Plaintiff)
CRS# 221333380664;
Case Management
Conference filed by
Manuel Diaz (Plaintiff) on
04/08/2025

The Motion re: Motion to Approve PAGA Settlement filed by Manuel Diaz on 04/08/2025 is Granted.

BACKGROUND

This is a PAGA representative action based on alleged violations of the Labor Code. Plaintiff Manuel Dias, as private attorney general on behalf of California's Labor and Workforce Development Agency, has agreed to settle the claims asserted against Defendant BHC Fremont Hospital, Inc. for \$1,800,000. The settlement amount includes up to \$600,000.00 in attorney's fees; reimbursement of up to \$25,000.00 in litigation costs and expenses incurred by counsel; an incentive award of \$7,500.00 for the named plaintiff; and settlement administration costs of up to \$20,000.00. The remaining settlement amount will be paid as PAGA civil penalties; 75% of penalties go to California Labor and Workforce Development Agency (LWDA) and 25% to aggrieved employees. Plaintiffs estimate that 2,227 aggrieved employees will receive \$126.39 each.

LEGAL STANDARD

Under the Private Attorneys General Act of 2004 (PAGA), an employee aggrieved by his
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or her employer's alleged Labor Code violations may be authorized to act as an agent of the Labor Workforce and Development Agency (LWDA) to bring a civil action to recover civil penalties. Once an aggrieved employee files a PAGA lawsuit, the statutory scheme recognizes that the employee may settle that lawsuit on behalf of the state. (See Lab. Code, § 2699, subds. (a) & (1)(2).) "The superior court shall review and approve any settlement," and the "proposed settlement shall be submitted to the [LWDA] at the same time that it is submitted to the court." (*Id.*, § 2699, subd. (1)(2).) A "trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77.) Although PAGA cases and class actions are different, the analysis for settlement approval is similar and involves many of the same factors, "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." (*Ibid.*)

DISCUSSION

The parties participated in mediation with a private mediator and thereafter agreed to a settlement. (Bokhour Decl., ¶ 12–13; Falakassa Decl., ¶¶ 11–13.) The court gives "considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm's length transaction entered without self-dealing or other potential misconduct." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129 [class action context].) Plaintiff's counsel cites extensive experience and attests to conducting an investigation sufficient to allow both sides to evaluate the case. (Bokhour Decl., ¶ 4–8, 25–30; Falakassa Decl., ¶¶ 6–8, 16–23.) Plaintiff provided notice of the settlement to the LDWA. (Bokhour Decl., ¶ 41.) At the court's request, the parties revised the scope of the PAGA release and identified a cy pres beneficiary, Voices for Children, as the recipient of any unclaimed funds. (See Supp. Bokhour Decl.) The court is satisfied that the PAGA settlement is generally "fair to those affected." (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549.)

The court exercises its discretion to approve a 31.5% fee award of \$567,000.00, more than its 30% benchmark. (See *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 495 [citing Ninth Circuit approval of 25% and Eleventh Circuit approval of 20–30% range]; see also *Schulz v. Jeppesen Sanderson, Inc.* (2018) 27 Cal.App.5th 1167, 1175 ["Although the trial court would be acting within its discretion to award less than 31 percent, we note that 31 percent is not out of line with awards in class actions, which, like this case, involve attorney fees to be paid by a protected class and that require court approval."].) A "court approving a settlement that includes a negotiated fee [] is required to decide if the fee negotiated by the parties closely approximates the value of the attorneys' work." (*Robbins v. Alibrandi*, 127 Cal.App.4th 438, 452.) In cross-checking using the lodestar/multiplier approach, Plaintiff's counsel calculated fees totaling \$308,087.50. (Falakassa Decl., ¶ 26.) The court generally applies the reasonable blending billing rate of \$600.00 in this type of case, which would result in a lodestar of \$267,300. A 31.5% award closely approximates the value of the work, with the application of more than a 2.0 multiplier. (See *Robbins v. Alibrandi*, 127 Cal.App.4th 438, 452 [A "court approving a settlement that includes a negotiated fee [] is required to decide if the fee negotiated

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by the parties closely approximates the value of the attorneys' work."].) While the case settled before formal discovery, dispositive motions, or trial, Plaintiff's counsel obtained an excellent result for the state, which will provide a benefit to the LWDA and a significant number of aggrieved employees.

ORDER

Plaintiff's motion for approval of PAGA settlement is GRANTED. The court will enter the proposed order and judgment submitted on July 17, 2025. The cy pres distribution and ten percent of the attorney's fee award must be held by the settlement administrator until court approval of the accounting. A compliance hearing for approval of a final accounting is set for April 30, 2025 at 10:00 am in Department 23.

Compliance Hearing accounting and distribution is scheduled for 04/30/2026 at 10:00 AM in Department 23 at Rene C. Davidson Courthouse.

No need to appear for the CMC. A Compliance Hearing accounting and distribution is scheduled for 04/30/2026 at 10:00 AM in Department 23 at Rene C. Davidson Courthouse.

The Court orders counsel to obtain a copy of this order from the eCourt portal.

Dated : 07/29/2025



Michael Markman / Judge

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