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Attorneys for Plaintiff and Aggrieved Employees

Electronically Filed by
Superior Court of California,
Contra Costa County
12/2/2025
By: N. McCallister-Villa, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF CONTRA COSTA

SHYLA THIERRY, as an individual and on behalf of all others similarly situated, Plaintiff, vs. BAKEMARK USA LLC, a Delaware limited liability company; and DOES 1 through 50, inclusive, Defendants.	Case No.: C23-01818 [Assigned for all purposes to the Hon. Edward G. Weil, Department 39] **~~[PROPOSED]~~ ORDER AFTER HEARING GRANTING PLAINTIFF'S MOTION TO APPROVE THE PARTIES' SETTLEMENT AGREEMENT PURSUANT TO THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 AND ENTERING JUDGMENT THERON** Date: November 20, 2025 Time: 9:00 a.m. Dept.: 39 Complaint Filed: July 24, 2023 Trial Date: None

~~[PROPOSED]~~ ORDER AND JUDGMENT

Plaintiff Shyla Thierry ("Plaintiff") and Defendant Bakemark USA LLC ("Defendant") (together with Plaintiff, the "Parties") have entered into the Private Attorneys General Act Settlement Agreement and Release ("Settlement Agreement" or "Settlement") to settle the above-captioned representative action subject to the Court's approval.

This matter is now before the Court on Plaintiff's Motion to Approve the Settlement Agreement Pursuant to PAGA. The Court has considered the Motion, Settlement Agreement, and all other papers filed in this action, and issued a tentative ruling on November 19, 2025 (a true and correct copy of which is attached as **Exhibit A**). As neither Party has timely contested the tentative, the Court's ruling is final and Plaintiff's Motion is granted.

A. Background of the Case and Terms of Settlement

This is a PAGA case, based on a notice to the LWDA given May 22, 2023, alleging a variety of violations of the Labor Code concerning failure to provide rest and meal breaks, failure to pay for off-the-clock work, failure to reimburse business expenses, and cascading derivative violations. The original complaint was filed on July 24, 2023, and remains the operative complaint.

The total settlement payment is $167,000. This is composed of attorney's fees of $55,666.67 (one-third of the settlement), litigation costs of up to $15,000, $2,960 in costs to the settlement administrator, and $10,000 to the plaintiff. The remaining amount ($89,657.28) would be a PAGA penalty, which would be apportioned 75% to the LWDA and 25% to the aggrieved employees, to the aggrieved employees. There are an estimated 80 aggrieved employees.

The payments from the employee share of the penalty will be distributed among the employees based on the number of pay periods each individual worked during the PAGA period.

Plaintiff's counsel attests that they engaged in extensive arms-length settlement negotiations. Informal discovery was undertaken, and the matter was resolved after a session with an experienced mediator. Counsel's declaration provides a general discussion of the strengths and weaknesses of the case, including an estimate of the value of the claims.

Plaintiff provided required notices to the LWDA of the initial claims and of the proposed settlement.

The settlement provides a process for mailing the notices to the aggrieved employees, who will not have to submit a claim, along with a process for following up on returned mail. Because this is a PAGA settlement, not a class action, there is no opportunity to object or opt out.

The settlement provides that the value of checks uncashed after 180 days will be turned over to a cy pres beneficiary, Legal Aid at Work. Counsel attests that they have no "conflict of interest" with Legal Aid at Work. Were this a class action, such a terse statement might not be sufficient to satisfy the requirements of Code of Civil Procedure section 382.4. Since PAGA contains no express provision to that effect, the declaration is sufficient.

The settlement provides that plaintiffs and all aggrieved employees release all claims for PAGA penalties that were alleged, or could have been alleged, based on the facts stated in the Operative Complaint and PAGA notice. Under recent appellate authority, limitation to those claims with the "same factual predicate" as those alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 537 ["A court cannot release claims that are outside the scope of the allegations of the complaint." "Put another way, a release of claims that goes beyond the scope of the allegations in the operative complaint' is impermissible." (*Id*., quoting *Marshall v. Northrop Grumman Corp*. (C.D. Cal. 2020) 469 F.Supp.3d 942, 949.)

B. Standards for Review of a PAGA Settlement

Settlements in PAGA cases must be approved by the court. (Labor Code § 2699(s)(2).) The Court of Appeal's decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found that the "fair, reasonable, and adequate" standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The Court also held that the trial court must assess "the fairness of the settlement's allocation of civil penalties between the affected aggrieved employees[.]" (*Id*., at 64-65.)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of*

California (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, "[t]he court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter." (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that *Neary* does not always apply, because "[w]here the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutatory purpose." (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 46, 63.)

C. Application to this settlement

Plaintiff indicates that the settlement is fair and was evaluated by counsel based on adequate information and arms-length negotiation. Even assuming success on the merits of each claim, PAGA gives the court discretion to reduce penalties for a variety of reasons, including where "based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust arbitrary and oppressive, or confiscatory." (Labor Code, § 2699(e)(2).) These factors make the result hard to predict. Considering counsel's analysis, the Court finds that the recovery is fair, reasonable, and adequate.

Labor Code section 2699(k)(1) provides that a prevailing employee in a PAGA action may recover attorney's fees. Plaintiff seeks one-third of the total settlement amount as fees, relying on the "common fund" theory. Even a proper common fund-based fee award, however, should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. It stated: "If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment." (*Id*., at 505.) Although *Lafitte* concerns a class action, not a PAGA-only case, this Court views the use of a lodestar cross-check as appropriate here. Based on one-third of the recovery, plaintiff seeks $55,666.67.

Plaintiff has conducted a lodestar cross-check. This results in a lodestar of approximately $88,500, which yields an implied multiplier of substantially less than 1. The lodestar is based on 147.5 hours at $600 per hour. Without necessarily endorsing every individual component of the lodestar, no adjustment is required.

The statute does not expressly address how the 25% plaintiff's share of the penalties is to be allocated among all of the aggrieved employees. (*Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 382.) One court has held, however, that the entire 25% share of penalties could not be awarded to the plaintiff. (*Moorer v. Noble L.A. Events, Inc.* (2019) 32 Cal.App.5th 736, 742-743.) In *Moorer*, the plaintiff had a claim worth about $9,500, yet was collecting penalties of $148,000, and keeping the entire employee share, causing the court to be concerned that the plaintiff had lost sight of the fact that the purpose of the action is to benefit the public, not private parties. Allocation based on pay periods is reasonable here.

Litigation costs of $8,726.05 are sought. They are reasonable and are approved.

The administrator's costs of $2,960 are reasonable and are approved.

Although this is not a class action, representative payments are sought in the amount of $10,000 for the plaintiff. These payments are reviewed under the criteria discussed in *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-807. The plaintiff attests to spending about 30 hours time on the case. She also attests that by filing suit, she took a risk of being stigmatized by employers. Moreover, the agreement sets forth that these are in exchange for a general release. The aggrieved employees are not releasing their individual wage claims from the alleged violations at issue, but the named plaintiff is doing so. Thus, there is value to the additional release. All things considered, the Court approves the requested payment.

D. Conclusion

The Court finds that the settlement is fair, reasonable, and adequate, and **grants the motion to approve**.

/ / /

NOW THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. Pursuant to Labor Code § 2699(l)(2), the Court approves the Settlement Agreement executed by Plaintiff and Defendant and filed with this Court, which is incorporated herein by this reference as though set forth in full, including the settlement administration and release of claims. All defined terms contained herein shall have the same meanings as set forth in the Settlement Agreement.

2. The Court finds that the Labor & Workforce Development Agency ("LWDA") has been given timely and proper notice of the Settlement Agreement pursuant to the Labor Code Private Attorneys General Act ("PAGA").

3. The Parties are hereby ordered to carry out the terms of the Settlement Agreement. Defendant is hereby ordered to fund the Gross Settlement Amount of $167,000.00 within thirty (30) calendar days after the Court enters this Order.

4. Pursuant to the terms of the Settlement Agreement and Labor Code § 2699(i), the Gross Settlement Amount of $167,000.00 shall be distributed as follows:

- $10,000.00 to Plaintiff for acting as the named Plaintiff;
- $55,666.67 to Plaintiff's Counsel as attorneys' fees, of which 5% (or $2,783.33) shall be withheld by the Settlement Administrator pending the compliance hearing;
- $8,726.05 to Plaintiff's Counsel as costs;
- $2,960.00 to Phoenix Settlement Administrators as the Settlement Administrator, who is hereby ordered to administer the Settlement;
- The remainder, or the Net PAGA Settlement Amount, after the above deductions shall be distributed 75% ($67,235.46) to the Labor & Workforce Development Agency and 25% ($22,411.82) to the Aggrieved Employees based on the formula set forth in the Settlement Agreement.

5. JUDGMENT IS ENTERED thereon pursuant to the terms of the Settlement Agreement. Other than as expressly provided in the Settlement Agreement, both Parties shall

bear their own costs and fees.

6. Pursuant to Code of Civil Procedure § 664.6, this Court shall have and retain continuing jurisdiction over this action to enforce the terms of the Parties' Settlement Agreement.

7. Pursuant to Labor Code § 2699(l)(3), Plaintiff shall submit a copy of this Order and Judgment to the LWDA within 10 days of entry of this Order and Judgment.

8. A compliance hearing will be held on **July 9, 2026**, at **9:00 a.m.** to review the Parties' compliance with the terms of this Order. Plaintiff's Counsel shall file a compliance report one week prior to the hearing.

IT IS SO ORDERED AND ADJUDGED.

DATED: 12/2/2025

Hon. Edward Weil

Honorable Edward G. Weil
Judge of the Superior Court

EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY
MARTINEZ, CA
DEPARTMENT 39
JUDICIAL OFFICER: EDWARD G WEIL
HEARING DATE: 11/20/2025

The tentative ruling will become the Court's ruling unless by 4:00 p.m. of the court day preceding the hearing, counsel or self-represented parties email or call the department rendering the decision to request argument and to specify the issues to be argued. Calling counsel or self-represented parties requesting argument must advise all other affected counsel and self-represented parties by no later than 4:00 p.m. of their decision to appear and of the issues to be argued**.** Failure to timely advise the Court and counsel or self-represented parties will preclude any party from arguing the matter. (*Local Rule* 3.43(2).)

Note: In order to minimize the risk of miscommunication, parties are to provide an **EMAIL NOTIFICATION TO THE DEPARTMENT OF THE REQUEST TO ARGUE AND SPECIFICATION OF ISSUES TO BE ARGUED**. Dept. 39's email address is: dept39@contracosta.courts.ca.gov. Warning: this email address is not to be used for any communication with the department except as expressly and specifically authorized by the court. Any emails received in contravention of this order will be disregarded by the court and may subject the offending party to sanctions.

Submission of Orders After Hearing in Department 39 Cases

The prevailing party must prepare an order after hearing in accordance with CRC 3.1312. If the tentative ruling becomes the Court's ruling, a copy of the Court's tentative ruling **must be attached to the proposed order** when submitted to the Court for issuance of the order.

Law & Motion

1. 9:00 AM CASE NUMBER: C23-01818
CASE NAME: SHYLA THIERRY VS. BAKEMARK USA LLC
***HEARING ON MOTION IN RE: TO APPROVE SETTLEMENT AGREEMENT**
FILED BY: THIERRY , SHYLA
****TENTATIVE RULING:****

Shyla Thierry moves for approval of the settlement of her PAGA suit against defendant BakeMark USA LLC.

A. **Background of the Case and Terms of Settlement**

This is a PAGA case, based on a notice to the LWDA given May 22, 2023, alleging a variety of violations of the Labor Code concerning failure to provide rest and meal breaks, failure to pay for off-the-clock work, failure to reimburse business expenses, and cascading derivative violations. The original complaint was filed on July 24, 2023, and remains the operative complaint.

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B. **Standards for Review of a PAGA Settlement**

Settlements in PAGA cases must be approved by the court. (Labor Code § 2699(s)(2).) The Court of Appeal's decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found that the "fair, reasonable, and adequate" standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The Court also held that the trial court must assess "the fairness of the settlement's allocation of civil penalties between the affected aggrieved employees[.]" (*Id*., at 64-65.)

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The administrator's costs of $2,960 are reasonable and are approved.

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D. **Conclusion**

The Court finds that the settlement is fair, reasonable, and adequate, and **grants the motion to approve**.

Counsel are directed to prepare an order incorporating the provisions of this ruling.

In addition, the order should include a compliance hearing for a suitable date (after the settlement has been implemented), chosen in consultation with the Department's clerk. One week before the compliance hearing, counsel shall file a compliance statement. 5% of the attorney's fees shall be withheld by the Administrator pending the compliance hearing.

PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
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 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On November 21, 2025, I served the following document(s) described as: **[PROPOSED] ORDER AFTER HEARING GRANTING PLAINTIFF'S MOTION TO APPROVE THE PARTIES' SETTLEMENT AGREEMENT PURSUANT TO THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 AND ENTERING JUDGMENT THERON** on the interested parties in this action as follows:

Deborah F. Birndorf Jayesh Patel Norton Rose Fulbright US LLP 555 South Flower Street, Forty-First Floor Los Angeles, California 90071	*Attorneys for Defendant Bakemark USA LLC* debbie.birndorf@nortonrosefulbright.com jayesh.patel@nortonrosefulbright.com

__X__ BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 21, 2025, at Los Angeles, California.

Erika Mejia