

Electronically Received 03/12/2024 10:25 AM

DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Kristen M. Agnew (State Bar No. 247656)
kagnew@diversitylaw.com
Nicholas Rosenthal (State Bar No. 268297)
nrosenthal@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile (213) 488-6554

POLARIS LAW GROUP
William L. Marder (State Bar No. 170131)
bill@polarislawgroup.com
501 San Benito Street, Suite 200
Hollister, California 95023
Telephone: (831) 531-4214
Facsimile (831) 634-0333

Attorneys for Plaintiff and the Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ALEXIS TRISTAN, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

AMERICAN HOMES 4 RENT, L.P., a
Delaware limited partnership; and DOES 1
through 50, inclusive,

Defendants

Case No. 23STCV17006

**[PROPOSED] ORDER AND JUDGMENT
GRANTING PLAINTIFF'S MOTION TO
APPROVE SETTLEMENT
AGREEMENT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT**

Date: March 11, 2024

Time: 10:00 a.m.

Dept: 61

Complaint Filed: July 20, 2023

Trial Date: None

FILED
Superior Court of California
County of Los Angeles

04/09/2024

David W. Slayton, Executive Officer / Clerk of Court

By: P. Salcido Deputy

1 The motion of Plaintiff Alexis Tristan for an order approving the settlement of the above-
2 captioned action and entering judgment thereon (“Motion”) having come before the Court, and
3 the Court being duly apprised of the premises, good cause appearing, IT IS HEREBY
4 ORDERED that the Motion shall be and is granted and the settlement of this action is hereby
5 approved.

6 Under PAGA, “[t]he superior court shall review and approve any settlement of any civil
7 action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the
8 same time that it is submitted to the court.” (Lab. Code, § 2699, subd. (l)(2).)

9 “[A] trial court should evaluate a PAGA settlement to determine whether it is fair,
10 reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations,
11 deter future ones, and to maximize enforcement of state labor laws.” (*Moniz v. Adecco USA,*
12 *Inc.* (2021) 72 Cal.App.5th 56, 77.)

13 Federal courts have compared and contrasted PAGA settlements to class action
14 settlements:

15 In the class action context, where PAGA claims often also appear, a district court must
16 independently determine that a proposed settlement agreement is “fundamentally fair, adequate
17 and reasonable” before granting approval. [Citations.] However, as the parties rightly point out
18 and as noted above, this is not a class action lawsuit, and PAGA claims are intended to serve a
19 decidedly different purpose-namely to protect the public rather than for the benefit of private
20 parties. [Citation.] In one recent district court case, the LWDA provided some guidance
21 regarding court approval of PAGA settlements. [Citations.] In that case, where both class action
22 and PAGA claims were covered by a proposed settlement, the LWDA stressed that “when a
23 PAGA claim is settled, the relief provided for under the PAGA be genuine and meaningful,
24 consistent with the underlying purpose of the statute to benefit the public and, in the context of a
25 class action, the court evaluate whether the settlement meets the standards of being
26 “fundamentally fair, reasonable, and adequate” with reference to the public policies underlying
27 the PAGA.”
28

1 (Salazar, *supra*, 2017 WL 1135801 at pp. 3–4.) A number of these factors, “including the
2 strength of the plaintiff’s case, the risk, the stage of the proceeding, the complexity and likely
3 duration of further litigation, and the settlement amount,” have been recognized as useful in the
4 analysis of PAGA settlements. (*Moniz, supra*, 72 Cal.App.5th at p. 77.)

5 Plaintiff Alexis Tristan (Plaintiff) present the terms of a proposed PAGA settlement here
6 as follows. Defendant American Homes 4 Rent, L.P. (Defendant) agrees to pay a gross
7 settlement amount of \$195,000.00, (Agnew Decl. Exh. 3, ¶ 17.) Plaintiff’s counsel is to be paid
8 from this amount one third, amounting to \$65,000.00, plus expenses of up to \$15,000.00, though
9 Plaintiff requests actual expenses in the amount of \$12,328.45. (*Id.* ¶ 18.) Plaintiff is to receive
10 an individual “enhancement” payment of \$10,000.00. (*Id.* at ¶ 19.) Fees are to be paid to the
11 settlement administrator in the anticipated amount of \$2,850.00. (*Id.* at ¶ 20.)

12 These payments leave a net amount of \$104,821.55 to be paid as penalties. (Agnew Decl.
13 Exh. 3, ¶ 21.) From this, 75% is to go to the Labor Workforce Development Agency, while 25%
14 is to go to the aggrieved employees on a per-pay-period basis. (*Id.* at ¶¶ 21–22.) There are
15 approximately 98 aggrieved employees, who each stand to receive on average \$267.40 from the
16 \$26,205.39 that is apportioned to them. (*Id.* at ¶¶ 16, 21–23.)

17 As to the amount of fees sought, Plaintiff presents a lodestar of 97.8 hours of attorney
18 work (Agnew Decl. ¶ 49; Rosenthal Decl. ¶ 6), which at the proposed hourly rates of \$800 per
19 hour, would yield a lodestar of \$78,240.00. Dividing those hours into the proposed \$65,000 fee
20 award would yield an average hourly rate of approximately \$664.60 per hour.

21 Plaintiff presents a maximum potential exposure for Defendant of \$538,600. (Agnew
22 Decl. ¶ 26.) This estimate is based on 2,693 potential pay periods, with each period apportioned
23 violations for overtime and wage statements. (Agnew Decl. ¶ 26.) Plaintiff discusses
24 Defendant’s challenges to both claims, including arguments as to the fundamental accuracy of
25 the wage statements provided and overtime pay correctly calculated. (Motion at pp. 16–17.)
26 Plaintiff also notes that this court would possess discretion to reduce an overall penalty amount,
27 even if violations were found. (Motion at pp. 17–18.)
28

1 In light of the above, the overall settlement amount furthers the purposes of PAGA. The
2 settlement is reasonable in light of the strength and complexity of Plaintiff's claims, and the risks
3 posed by litigation. Plaintiff's request for fees, representing one third of the gross settlement
4 amount, is reasonable in light of the lodestar analysis presented by Plaintiff's counsel. The
5 calculation of attorney fees from a percentage of a common fund created by a settlement
6 agreement is a permissible mode of fee calculation. (*See Laffitte v. Robert Half Internat.*
7 *Inc.* (2016) 1 Cal.5th 480, 503.) Courts may evaluate the reasonableness of any percentage-based
8 attorney fee award through a "cross-check" with a lodestar calculation, as Plaintiff presents
9 here. (*See Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 505.)

10 The motion is therefore GRANTED.

11
12 Dated: 04/09/2024



Gregory Keosian
HON. GEORGE KEOSIAN
SUPERIOR COURT OF CALIFORNIA
Gregory Keosian / Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 March 12, 2024, I served the following document(s) described as: **[PROPOSED] ORDER AND JUDGMENT GRANTING PLAINTIFF'S MOTION TO APPROVE SETTLEMENT AGREEMENT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT** on the interested parties in this action as follows:

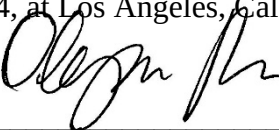
Mark D. Kruthers
Fennemore Dowling Aaron
8080 N. Palm Avenue, 3rd Floor
Fresno, California 93711

*Attorneys for Defendant American Homes 4
Rent, L.P.*

mkruthers@fennemorelaw.com

 X BY ELECTRONIC SERVICE: I caused the above-entitled document(s) to be served through the ACE Attorney Service E-Filing System at the website www.efile.acelegal.com, addressed to all parties appearing on this proof of service 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 March 12, 2024, at Los Angeles, California.



Olympia Peña