

Filed
April 8, 2025
Clerk of the Court
Superior Court of CA
County of Santa Clara
23CV422144
By: MJacobo

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

JACOB NEZZER, as an individual, on behalf of
himself, and all persons similarly situated,

Plaintiff,

v.

COMMAND SECURITY SERVICES, LP, a
California corporation authorized to do business
in the state of California; and DOES 1 to 10
inclusive,

Defendant.

) Case No. 23CV422144

) [Assigned to Hon. Theodore C. Zavner,
Dept. 19]

) ~~PROPOSED~~ FINAL AMENDED
) ORDER GRANTING PLAINTIFF'S
) MOTION FOR COURT APPROVAL OF
) PAGA SETTLEMENT AND
) JUDGEMENT

) Action Filed: September 01, 2023

1 **~~[PROPOSED]~~ FINAL AMENDED ORDER AND JUDGEMENT**

2 The above-entitled action came for hearing before the Honorable Theodore C. Zayner on
3 September 25, 2024 at 1:30 p.m. in Department 19. Having reviewed and considered the parties’
4 PAGA Settlement Agreement (“Settlement Agreement”) and Plaintiff’s unopposed motion for
5 approval of PAGA settlement, and all supporting documents on file, and for good cause appearing,
6 on September 25, 2024, the COURT issued an Order granting the approval of PAGA settlement.

7 On March 26, 2025 at 2:30 p.m. in Department 19, the Court held a compliance hearing.
8 Having reviewed Plaintiff’s counsel and the settlement administrator’s Declaration regarding: a
9 summary accounting of the net settlement fund identifying distributions made as ordered; the
10 number and value of any uncashed checks; the status of any unresolved issues; and any other
11 matters appropriate to bring to the court’s attention, the Court hereby Orders as follows:

12 **I. Introduction**

13 Plaintiff Jacob Nezzar (“Plaintiff”) brings this representative action against Defendant
14 Command Security Services, LP (“Defendant”). On September 1, 2023, Plaintiff filed his Class and
15 Representative Action Complaint (“Complaint”), alleging the following causes of action: (1) failure
16 to pay minimum wages; (2) failure to provide legally compliant meal periods or compensation in
17 lieu thereof; (3) failure to provide legally compliant rest periods or compensation in lieu thereof;
18 (4) failure to pay all wages owed upon separation; (5) failure to provide paid sick leave; (6) failure
19 to furnish accurate itemized wage statements; (7) failure to maintain accurate records; (8) failure to
20 provide copies of signed documents; (9) failure to reimburse for necessary work expenses; (10)
21 violation of unfair competition law; and (11) Private Attorneys General Act (Labor Code sections
22 2698, *et seq.* (“PAGA”)).

23 On December 4, 2023, the court (Hon. Kulkarni) entered an order on the parties’ stipulation
24 to dismiss Plaintiff’s class claims without prejudice. (Joint Stipulation and Order, p. 3:14.) Plaintiff
25 signed an arbitration agreement in January of 2023, and the parties agreed to proceed with
26 arbitration only as to Plaintiff’s individual wage and hour claims and his individual PAGA claims.
27 (*Id.* at pp. 2:9-17; 3:11-13.)

28 The parties have reached a settlement. Plaintiff moved for approval of the PAGA

1 settlement, and the motion was unopposed.

2 **II. Legal Standard**

3 Under PAGA, an aggrieved employee may bring a civil action personally and on behalf of
4 other current or former employees to recover civil penalties for Labor Code violations. (*Iskanian v.*
5 *CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking*
6 *River Cruises, Inc. v. Moriana* (2022) 596 U.S.____ [2022 U.S. LEXIS 2940].) Seventy-five percent
7 of any penalties recovered go to the Labor and Workforce Development Agency (“LWDA”),
8 leaving the remaining 25 percent for the employees. (*Ibid.*) PAGA is intended “to augment the
9 limited enforcement capability of [the LWDA] by empowering employees to enforce the Labor
10 Code as representatives of the Agency.” (*Id.* at p. 383.) A judgment in a PAGA action binds all
11 those, including nonparty aggrieved employees, who would be bound by a judgment in an action
12 brought by the government. (*Id.* at p. 381.)

13 A superior court must review and approve any PAGA settlement. (Lab. Code, § 2699, subd.
14 (l)(2).) The court’s review “ensur[es] that any negotiated resolution is fair to those affected.”
15 (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549.) The proposed settlement must be
16 submitted to the LWDA at the same time it is submitted to the court. (*Ibid.*)

17 As discussed by one court:

18 PAGA does not establish a clear standard for evaluating PAGA
19 settlements. ... [¶]

20 Accordingly, certain courts have been willing to approve PAGA
21 settlements only if (1) the statutory requirements set forth by PAGA
22 have been satisfied, and (2) the settlement agreement is fair,
23 reasonable, and adequate in view of PAGA’s public policy goals.

24 (*Patel v. Nike Retail Services, Inc.* (N.D. Cal. 2019) 2019WL 2029061, 2019 U.S. Dist. LEXIS
25 77988 (*Patel*), at *5.)

26 As part of this analysis, these courts have evaluated proposed PAGA settlements under the
27 relevant factors from *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026. (*Patel, supra*,
28 2019 U.S. Dist. LEXIS 77988 at *5-6.) “Of the *Hanlon* factors, the following are relevant to
evaluating [a] PAGA settlement: (1) the strength of the plaintiff’s case; (2) the risk, expense,
complexity, and likely duration of further litigation; (3) the amount offered in settlement; (4) the

1 extent of discovery completed and the stage of the proceedings; (5) the presence of government
2 participation; and (6) the expertise and views of counsel.” (*Ibid.*)

3 Similar to its review of class action settlements, the Court must “determine independently
4 whether a PAGA settlement is fair and reasonable,” to protect “the interests of the public and the
5 LWDA in the enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th
6 56, 76–77.) It must make this assessment “in view of PAGA’s purposes to remediate present labor
7 law violations, deter future ones, and to maximize enforcement of state labor laws.” (*Id.* at p. 77;
8 see also *Haralson, supra*, 383 F. Supp. 3d at p. 971 [“when a PAGA claim is settled, the relief
9 provided for under the PAGA [should] be genuine and meaningful, consistent with the underlying
10 purpose of the statute to benefit the public”], quoting LWDA guidance discussed in *O’Connor*
11 *v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O’Connor*).)

12 “[W]hen a PAGA claim is settled, the relief provided ... [should] be genuine and
13 meaningful, consistent with the underlying purpose of the statute to benefit the public”
14 (*O’Connor, supra* at p. 1133.) The settlement must be reasonable in light of the potential verdict
15 value. (*Id.* at 1135 [rejecting settlement of less than one percent of the potential verdict].) But a
16 permissible settlement may be substantially discounted, given that courts often exercise their
17 discretion to award PAGA penalties below the statutory maximum even where a claim succeeds at
18 trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016
19 WL 5907869, 2016 U.S. Dist. LEXIS 140759 at *8-9.)

20 **III. Discussion**

21 **A. Provisions of the Settlement**

22 This case has been settled on behalf of a group of “Aggrieved Employees,” defined as “all
23 current and former persons employed by [Command Security Services, LP (“Defendant”)] or
24 Released Parties as non-exempt employees in California during the PAGA Period.” (Declaration of
25 R. Craig Clark (“Clark Dec.”), Ex. 1 (“Agreement”), ¶ 1.4.) “Released Parties” means Defendant
26 and related entities and persons. (*Id.* at ¶ 1.26.)

27 The “PAGA Period” is the period from June 30, 2022 to the Effective Date. (Agreement at
28 ¶ 1.19.)

1 “Effective Date” means the date by when the following have
2 occurred: (a) the Court enters a Judgment on its Order Approving the
3 PAGA Settlement, (b) the Judgment is final, and (c) the date the time
4 to appeal or seek permission to appeal or seek other judicial review
5 of the entry of a Judgment approving the Settlement has expired with
(Id. at ¶ 1.9.)

6 According to the terms of the settlement, Defendant will pay a gross settlement amount of
7 \$215,000. (Agreement, ¶ 1.10.) This amount includes attorney fees of up to one-third of the gross
8 settlement amount (currently estimated to be \$71,666.67), litigation costs up to \$15,000, an
9 enhancement award up to \$5,000, settlement administration expenses of up to \$4,250, and a PAGA
10 Penalties payment totaling \$119,083.32 (75% of which (\$89,312.49) will be paid to the LWDA,
11 and 25% of which (\$29,770.83) will be paid to the Aggrieved Employees). (Id. at ¶¶ 1.10, 1.22,
12 3.1, 3.2.1-3.2.4.) The court approves Phoenix Class Action Administration Solutions as the
13 settlement administrator. (Id. at ¶¶ 1.2, 7.1.)

14 Based on a review of its records, Defendant estimated there were approximately 249
15 Aggrieved Employees who worked a total of 6,864 pay periods. (Agreement, ¶ 4.1.) Under the
16 Agreement, Individual PAGA Payments will be distributed to Aggrieved Employees on a pro-rata
17 basis according to the number of pay periods worked during the PAGA Period. (Id. at ¶ 3.2.3.1.)
18 Funds from checks remaining uncashed more than 180 days after mailing will be transmitted to the
19 California Controller’s Unclaimed Property Fund in the name of the Aggrieved Employee. (Id. at ¶
20 4.4.3.)

21 In exchange for the settlement, the Aggrieved Employees are deemed to release Defendant,
22 and related entities and persons, from all claims for PAGA penalties that were alleged, or
23 reasonable could have been alleged, based on the PAGA Period facts alleged in the operative
24 Complaint and the PAGA Notice sent to the LWDA. (Agreement, ¶¶ 1.25, 1.26, 5.2.) Plaintiff also
25 agrees to a comprehensive general release. (Id. at ¶ 5.1.)

26 **B. Fairness of the Settlement**

27 Plaintiff contends the proposed settlement is fair, reasonable, adequate and in the best
28 interest of the PAGA settlement class and the State of California. (Clark Dec., ¶ 36.) On March 5,

2024, the parties participated in mediation with Steve Pearl, Esq. (*Id.* at ¶ 5.) Prior to mediation, the parties engaged in discovery, with Defendant producing documents such as Plaintiff's personnel file, time and pay records for a 15% sample of other non-exempt employees, handbooks and relevant policies. (*Id.* at ¶ 4.)

Plaintiff estimates that Defendant's maximum exposure for PAGA penalties is \$1,029,600. (Agreement, ¶ 8.) This amount is based on 6,864 pay periods at \$50 penalty x 3, for overtime, meal period premiums, and rest period premiums. (*Ibid.*) Plaintiff reasons that, although penalties under PAGA are \$100 per pay period for an initial violation and \$200 per pay period for a subsequent violation, Defendant will argue that Labor Code section 558 applies to limit the penalties available to \$50 per pay period. (*Id.* at ¶ 7.) Plaintiff also discusses Defendant's anticipated defenses to the particular claims in question, noting the difficulties in proving the claims and the risk of recovering nothing. (*Id.* at ¶¶ 9-14.)

According to Plaintiff's figures, the gross settlement amount of \$215,000 represents 20.88% of the \$1,029,600 maximum in civil penalties that Plaintiff could recover at trial. After reviewing Plaintiff's written submission, the court finds that he has sufficiently explained the rationale for the settlement amount. The settlement provides for some recovery for each Aggrieved Employee and eliminates the risk and expense of future litigation. Therefore, the court finds that the proposed PAGA settlement is fair and reasonable.

C. Enhancement Award

As part of the settlement, Plaintiff seeks a service award in the amount of \$5,000. Although service awards are common in class actions, there is less authority regarding the propriety of service awards in PAGA cases. Nevertheless, a PAGA case is a representative action like a class action, and courts have recognized that an individual's willingness to act as a private attorney general may merit a service award. (See *Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 959.)

Plaintiff has submitted a declaration detailing his participation in the action. (Declaration of Jacob Nezzar, ¶¶ 7-11.) He states that he has actively participated in this lawsuit from the outset, and his involvement has included regular communication with counsel and providing detailed

1 descriptions regarding his claims and Defendant's policies and practices. (*Id.* at ¶ 9.) He estimates
2 that he has spent approximately 35 hours on the litigation of this case. (*Ibid.*) The court finds that
3 an enhancement award is justified and that the amount requested is reasonable.

4 Accordingly, the court approves an enhancement award of \$5,000.

5 **D. Attorney Fees and Costs**

6 Plaintiff's counsel seeks an attorney fees award of \$71,666.67 (one-third of the gross
7 settlement amount). (Clark Dec., ¶ 26.) Plaintiff's counsel states that its lodestar to date is
8 \$102,749, based on 132.5 hours billed at rates from \$250 to \$1,150 per hour. (*Id.* at ¶¶ 27-28.) This
9 results in a negative multiplier. The court finds the requested fees to be reasonable as a percentage
10 of the total recovery, and an attorney fee award is approved in the requested amount of \$71,666.67.

11 Plaintiff's counsel also requests litigation costs in the total amount of \$14,417.56 and
12 provides evidence of incurred costs in that amount. (Clark Dec., ¶ 32 and Ex. 3.) The amount
13 requested is reasonable, and the court approves an award of litigation costs in the amount of
14 \$14,417.56.

15 Plaintiff also requests settlement administration costs in the amount of \$4,250. (Agreement,
16 ¶ 3.2.2.) Plaintiff provides a declaration from the settlement administrator demonstrating that costs
17 associated with settlement administration will not exceed \$4,250. (Declaration of Jodey Lawrence
18 of Phoenix Settlement Administrators, ¶ 16 and Ex. B.) Therefore, the court approves settlement
19 administration costs in the amount of \$4,250.

20 Accordingly, the motion for approval of PAGA settlement is GRANTED.

21 **IV. DISTRIBUTION OF THE SETTLEMENT FUNDS**

22 The Court held a compliance hearing on March 26, 2025 at 2:30 p.m. in Department 19.
23 Having reviewed Plaintiff's counsel and the settlement administrator's declaration regarding: the
24 summary accounting of the net settlement fund identifying distributions made as ordered herein;
25 the number and value of any uncashed checks; the status of any unresolved issues; and any other
26 matters appropriate to bring to the court's attention, the Court further finds that the settlement
27 distribution has been in compliance with the Settlement Agreement and this Court's Order.
28

1 **JUDGEMENT**

2 In accordance with, and for the reasons stated above, judgment is hereby rendered and
3 entered under and in accordance with the terms of the Settlement Agreement. This judgment, upon
4 the effectiveness of the releases of claims provided for in the Settlement, shall constitute a full and
5 complete bar against Representative Plaintiff, PAGA Counsel, the Aggrieved Employees, and the
6 State of California as to all of the claims released by the Settlement and shall be res judicata and
7 collateral estoppel with respect to such released claims.

8 Pursuant to California Code of Civil Procedure §664.6 and Rule 3.769(h) of the California
9 Rules of Court and in accordance with Settlement Agreement, this Court reserves exclusive and
10 continuing jurisdiction over this Action, the Representative Plaintiff, the Aggrieved Employees,
11 and Defendants in the action, for the purpose of supervising the implementation, enforcement,
12 construction, and interpretation of the Settlement Agreement, and the Court's approval order and
13 judgment in the Action.

14 Plaintiff is directed to submit a copy of this Order and Judgment to the LWDA within 10
15 days of the date of this Order and Judgment.

16
17 **IT SO ORDERED.**

18
19 Dated: April 1, 2025



Hon. Theodore C. Zayner
Judge of the California Superior Court