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County of Santa Clara
23CV426656
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Attorney for Plaintiff
Jose Gonzalez

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

JOSE GONZALEZ, on his own behalf and all similarly situated individuals,	) NO. 23CV426656
	)
Plaintiff,	) Proposed AMENDED ORDER
	) GRANTING PLAINTIFF'S MOTION
v.	) FOR APPROVAL OF PAGA
	) SETTLEMENT
SPEC PERSONNEL, LLC, PACE SUPPLY	)
CORP., and DOES 1 to 100,	)
	)
Defendants.	)

This is a representative action under the Private Attorneys General Act ("PAGA"). Plaintiff Jose Gonzalez alleges defendants Spec Personnel, LLC ("Spec") and Pace Supply Corp. ("Pace Supply") (collectively, "Defendants") committed various wage and hour violations and seeks PAGA penalties for those violations. Before the Court is Plaintiff's motion for approval of PAGA settlement, which is unopposed. As discussed below, the Court GRANTS the motion.

I BACKGROUND

According to the allegations of the operative First Amended Complaint ("FAC"), Defendants employed Plaintiff as a nonexempt worker, and he worked as a warehouse associate/driver at Pace Supply's Santa Clara location. Plaintiff worked for Defendants from June 2023 to September 2023. (FAC, 1 10.) He alleged Defendants failed to: provide compliant meal and rest periods; keep accurate wage statements, and timely pay Plaintiff and Aggrieved Employees (minimum and overtime wages) during their employment and upon termination.

Based on the foregoing, Plaintiff initiated this action on November 27, 2023, and on February 20, 2023, he filed the operative FAC, asserting claims for civil penalties under PAGA.

II LEGAL STANDARD FOR APPROVING PAGA SETTLEMENT

Under PAGA, an aggrieved employee may bring a civil action personally and on behalf of other current or former employees to recover civil penalties for Labor Code violations. (*Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v. Moriana* (2022) ___U.S.___, 2022 U.S. LEXIS 2940.) 75 percent of any penalties recovered go to the Labor and Workforce Development Agency (LWDA), leaving the remaining 25 percent for the employees. (*Ibid.*) PAGA is intended “to augment the limited enforcement capability of [LWDA] by empowering employees to enforce the Labor Code as representatives of the Agency.” (*Id.* at p. 383.) A judgment in a PAGA action binds all those, including nonparty aggrieved employees, who would be bound by a judgment in an action brought by the government. (*Id.* at p. 381.)

Labor Code section 2699, subdivision (1)(2) provides that “[t]he superior court shall review and approve any settlement of any civil action filed pursuant to” PAGA. The court’s review “ensur[es] that any negotiated resolution is fair to those affected.” (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549.) “[C]lass certification is not required” in this context as in a class action. (*Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383 F. Supp. 3d 959, 971 (*Haralson*).)

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

The settlement must be reasonable in light of the potential verdict value. (See *O’Connor*,

1 *supra*, 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential
2 verdict].) But a permissible settlement may be substantially discounted, given that courts often
3 exercise their discretion to award PAGA penalties below the statutory maximum even where a claim
4 succeeds at trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-
5 EMC) 2016 WL 5907869, at *8–9.)

6 **III PLAINTIFF’S INVESTIGATION, SETTLEMENT PROCESS, AND THE PARTIES’** 7 **AGREEMENT**

8 This case was filed as a class action but due to an arbitration agreement with a class action
9 waiver, this case focuses on Plaintiff’s individual claims and the PAGA claims.¹ The parties
10 conducted informal discovery. On July 23, 2024, the parties participated in a mediation session with
11 employment mediator Steve Mehta and they settled the case in principle. Subsequently they drafted
12 and fully executed the settlement agreement currently before the Court.

13 Pursuant to the parties’ agreement, Defendants will pay a non-reversionary gross-settlement
14 amount of \$103,635, which is comprised of \$34,545 in attorney fees, up to \$12,000 in litigation costs,
15 and up to \$10,000 in administrative costs. The net settlement amount is \$39,590, of which 75%
16 (\$29,692.50) will be distributed to the LWDA and 25% (\$9,897.50) will be distributed, on a pro rata
17 basis, to “Aggrieved Employee” who are defined as “all current and former non-exempt employees
18 who worked for SPEC in California and who were placed at a PACE facility during the period of
19 November 25, 2022 through August 3, 2024.” It is estimated that there are 287 Aggrieved Employees
20 and 2,961 pay periods during the relevant time period; this results in an average payment to each
21 employee of \$34.38. Plaintiff requests a service enhancement of \$7,500.

22 In exchange for settlement, Plaintiff, individually and as the representative acting as a proxy
23 or agent of the LWDA will release:

24 [A]ll the Released Parties for all penalties under the California Private Attorneys’ General
25 Act (Labor Code section 2698, *et seq.*) that were or could have been sought by the Labor
26 Commissioner for the violations identified in Plaintiff’s operative Complaint and Plaintiff’s pre-
27 filing letter to the LWDA on November 25, 2023...that accrued at any time between November 25,

28 ¹ On January 30, 2025, Plaintiff filed a declaration to dismiss the class action allegations from this case.

2022 through August 3, 2024.

This release is appropriately tailored to the allegations at issue, and do not release any claims other than those for PAGA penalties. (See *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537; *Moniz, supra*, 72 Cal.App.5th at p. 82 [release of “all known and unknown claims under PAGA ... that were or could have been pled based on the allegations of the Complaint” was appropriately approved].)

IV DISCUSSION

A. Potential Verdict Value

In the FAC, Plaintiff asserts six causes of action for PAGA penalties based on Defendants’ alleged failure to (1) pay all wages owed (minimum and overtime) during employment and upon termination, (2) provide compliant meal breaks and rest breaks, and (3) provide timely and accurate wage statements.

In the absence of known findings by a court or the Labor Commissioner that Defendants violated the Labor Code, Defendants are not subject to the heightened \$200 penalty for violations but only the \$100 penalty per employee, per pay period for each violation. Based on figures provided by Defendants, 287 Aggrieved Employees and 2,961 pay periods during the relevant time period—Plaintiff calculated Defendants total exposure for PAGA penalties to be \$1,011,050. Plaintiff’s counsel then discounted this amount to account for the following risks: that the off-the-clock and missed breaks could be limited to Plaintiff’s personal experience; the ability to prove the meal and rest break violations; the evidence would not support a finding of willfulness. Thus, Plaintiff calculates a more realistic maximum exposure of \$343,666.50.

The settlement amount of \$103,635 is 10% of the total exposure and 30% of the more realistic PAGA exposure. Given this, as well as the risks attendant to proceeding to trial, Defendants’ insistence that any violations were not willful and the likelihood that PAGA penalties would be significantly reduced in line with numerous appellate decisions, the Court finds that the proposed settlement is fair to those affected and is genuine, meaningful, and reasonable in light of the statute’s purposes.

1 **B. Attorney Fees**

2 While the PAGA statute does not expressly require judicial review of claimed attorney fees,
3 the Court believes it cannot adequately fulfill its statutory duty to review the penalties associated
4 with PAGA settlements without also considering attorney fees. The Court thus finds that it must
5 scrutinize the attorney fee arrangement associated with a PAGA settlement. This is consistent with
6 the observation of many courts that PAGA claims are analogous to “*qui tam*” suits like those under
7 the federal False Claims Act: when reviewing settlements of *qui tam* claims, courts should and do
8 consider any associated attorney fee arrangement. (See *U.S. v. Texas Instruments Corp.* (9th Cir.
9 1994) 25 F.3d 725, 728 [attorney fee award must be considered by the trial court as part of its review
10 of the “entire settlement arrangement”].)

11 As articulated above, Plaintiff seeks a fee award one-third of the settlement amount which is
12 \$34,545. Plaintiff submits a lodestar figure of \$88,742.50, based on 110 hours of work at billing rates
13 of \$75 to \$850 per hour, resulting in a negative multiplier of .38. This is well short of the range of
14 multipliers that courts typically approve. (See *Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th
15 480, 488, 503–504 (*Laffitte*) [trial court did not abuse its discretion in approving fee award of 1/3 of
16 the common fund, cross-checked against a lodestar resulting in a multiplier of 2.03 to 2.13]; *Wershba*
17 *v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255 “[m]ultipliers can range from 2 to 4 or even
18 higher”]; *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051, fn. 6 [stating that
19 multipliers ranging from one to four are typical in common fund cases and citing the court’s own
20 survey of large settlements finding “a range of 0.6–19.6, with most (20 of 24, or 83%) from 1.0–4.0
21 and a bare majority (13 of 24, or 54%) in the 1.5–3.0 range”].)

22 Here, given the significant amount of work performed by Plaintiff’s counsel, and because the
23 requested multiplier sought by them is well short of the range of multipliers regularly approved by
24 California courts in similar actions, the Court finds counsel’s requested fee award is reasonable and
25 therefore it is approved.

26 **C. Other Costs and Expenses**

27 Counsel’s request for litigation costs of \$10,990.52 appears reasonable based on the
28 supporting declarations provided which establish that counsel actually incurred costs in this amount

and is approved. Counsel provides a quote from Simpluris for \$3,000 in administration costs, which are also approved. (See Declaration of Adam Rose, ¶6; Exh. D.)

Finally, the Court finds that the named plaintiff is entitled to an enhancement award. The rationale for such awards in class actions is that named plaintiffs “should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class,” considering the “1) the risk to the class representative in commencing suit, both financial and otherwise; 2) the notoriety and personal difficulties encountered by the class representative; 3) the amount of time and effort spent by the class representative; 4) the duration of the litigation; and 5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation.” (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395 [internal citations and quotations omitted].) These considerations apply equally in the PAGA context.

Applying the relevant factors, the Court finds that an enhancement award of \$7,500, which is adequately supported by the declaration provided by the named plaintiff, is appropriate.

V ADMINISTRATION PROCESS

Pursuant to the terms of the Settlement Agreement, within fifteen (15) days of Court approval of its terms, Defendants will provide settlement administrator, Simpluris, with a list of all Aggrieved Employees with the relevant identifying information such as (1) first and last name; (2) last known mailing address; (3) social security number; and (4) the total number of pay periods during which the Aggrieved Employee performed work during the PAGA period as an aggrieved employee. Within fifteen (15) days of funding, the settlement administrator will pay the various amounts approved by the Court to (1) each Aggrieved Employee, (2) Plaintiff’s counsel, (3) the LWDA, and (4) the administrative costs. Each Aggrieved Employee will be sent a check in the appropriate amount. Any checks returned as non-deliverable will promptly be re-mailed to the forwarding address provided; if none is, Simpluris will attempt to locate one using a skip trace or other search method. Any checks returned as undeliverable or that remain uncashed after 180 days will be transmitted to the Unclaimed Property Fund. These administrative procedures are appropriate and are approved.

VI ORDER AND JUDGMENT

Plaintiff’s motion for approval of the parties’ PAGA settlement is GRANTED. The covered

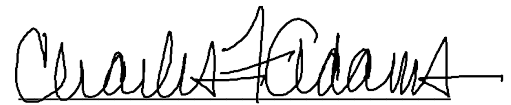
1 individuals are: all current and former non-exempt employees who worked for SPEC in California
2 and who were placed at a PACE facility during the period of November 25, 2022 through August 3,
3 2024.

4 Judgment shall be entered through the filing of this order and judgment. (Code Civ. Proc., §
5 668.5.) Plaintiff and the Aggrieved Employees shall take from the PAGA claim in their FAC only
6 the relief set forth in the parties' settlement agreement and this order and judgment. The Court retains
7 jurisdiction over the parties to enforce the terms of the PAGA settlement agreement and the final
8 order and judgment.

9 The Court sets a compliance hearing for **October 16, 2025 at 2:30 P.M.** in Department 7. At
10 least ten court days before the hearing, Plaintiff's counsel and Simpluris shall submit a summary
11 accounting of the net settlement fund identifying distributions made as ordered herein; the number
12 and value of any uncashed checks; amounts remitted the Unclaimed Property Fund; the status of any
13 unresolved issues; and any other matters appropriate to bring to the Court's attention. Counsel may
14 appear at the compliance hearing remotely.

15
16 **IT IS SO ORDERED.**

17 Date: 4/30/2025 5:46:46 PM


Hon. Judge Charles Adams