Filed
November 19, 2026
Clerk of the Court
Superior Court of CA
County of Santa Clara
23CV424953
By: egonzalez

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

ZACHARY SCHENK, individually, on behalf of all others similarly situated, the State of California, and other aggrieved persons, Plaintiff, v. SMITH'S GTS, INC., a California corporation and DOES 1 through 10, inclusive, Defendants.	Case No. 23CV424953 **ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

This is a putative class and Private Attorneys General Act ("PAGA") action. Plaintiff Zachary Schenk alleges defendant Smith's GTS, Inc. committed various wage and hour violations.

Before the Court is Plaintiff's motion for final approval of 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"), Plaintiff worked for Defendant in Santa Clara as an hourly-paid, non-exempt employee from approximately December 2022 to approximately September 2023. (FAC, ¶ 8.) Defendant failed to: pay for all hours worked; provide compliant meal periods or compensation in lieu thereof; provide compliant rest periods or compensation in lieu thereof; pay full wages; furnish accurate

wage statements; timely pay wages; and reimburse necessary business expenses. (FAC, ¶¶ 5, 14-23.)

On October 26, 2023, Plaintiff initiated this action with the filing of the Complaint and on April 15, 2024, he filed the operative FAC, which asserts the following causes of action: (1) failure to pay minimum and straight time wages (Lab. Code §§ 204, 1194, 1194.2, and 1197); (2). failure to pay overtime wages (Lab. Code §§ 1194 and 1198); (3) failure to provide meal periods (Cal. Lab. Code §§ 226.7, 512); (4) failure to authorize and permit rest periods (Lab. Code §§ 226.7); (5) failure to timely pay final wages at termination (Lab. Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Lab. Code § 226); (7) failure to indemnify employees for expenditures (Lab. Code § 2802); (8) unfair business practices (Bus. & Prof. Code §§ 17200, et seq.); and (9) civil penalties under PAGA (Lab. Code § 2699, et seq.). On May 22, 2026, the Court issued its order granting Plaintiff's motion for preliminary approval.

Plaintiff moves for an order finally: approving the proposed settlement agreement; awarding attorneys' fees and costs; awarding the class representative service payment; approving the settlement administrator expenses to settlement administrator Apex Class Action, LLC ("Apex"); and approving PAGA penalties.

II. LEGAL STANDARDS FOR SETTLEMENT APPROVAL

A. Class Action

Generally, "questions whether a [class action] settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234–235 (*Wershba*), disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

> In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the

extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

(*Wershba, supra*, 91 Cal.App.4th at pp. 244–245, internal citations and quotations omitted.)

In general, the most important factor is the strength of the plaintiffs' case on the merits, balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130 (*Kullar*).) But the trial court is free to engage in a balancing and weighing of relevant factors, depending on the circumstances of each case. (*Wershba, supra*, 91 Cal.App.4th at p. 245.) The trial court must examine the "proposed settlement agreement to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." (*Ibid.*, citation and internal quotation marks omitted.) The trial court also must independently confirm that "the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation." (*Kullar, supra*, 168 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be "provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." (*Id.* at pp. 130, 133.)

B. PAGA

Labor Code section 2699, subdivision (l)(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.) Seventy-five percent of any penalties recovered under PAGA go to the Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-five percent for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v. Moriana* (2022) 596 U.S. 639, 2022 U.S. LEXIS 2940.)

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.) 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 v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383 F. Supp. 3d 959, 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, supra,* 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential verdict].) But a permissible settlement may be substantially discounted, given that courts often exercise their discretion to award PAGA penalties below the statutory maximum even where a claim succeeds at trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 WL 5907869, at *8–9.)

III. SETTLEMENT CLASS

> All past and present non-exempt employee in the state of California who worked for Defendant at any time during the Class Period [October 26, 2019 to August 23, 2024].

Rule 3.769(d) of the California Rules of Court states that "[t]he court may make an order approving or denying certification of a provisional settlement class after [a] preliminary settlement hearing." California Code of Civil Procedure Section 382 authorizes certification of a class "when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court ...."

Section 382 requires the plaintiff to demonstrate by a preponderance of the evidence: (1) an ascertainable class and (2) a well-defined community of interest among the class members. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, 332 (*Sav-On*

Drug Stores).) "Other relevant considerations include the probability that each class member will come forward ultimately to prove his or her separate claim to a portion of the total recovery and whether the class approach would actually serve to deter and redress alleged wrongdoing." (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) The plaintiff has the burden of establishing that class treatment will yield "substantial benefits" to both "the litigants and to the court." (*Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385.)

In the settlement context, "the court's evaluation of the certification issues is somewhat different from its consideration of certification issues when the class action has not yet settled." (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 93.) As no trial is anticipated in the settlement-only context, the case management issues inherent in the ascertainable class determination need not be confronted, and the court's review is more lenient in this respect. (*Id.* at pp. 93–94.) But considerations designed to protect absentees by blocking unwarranted or overbroad class definitions require heightened scrutiny in the settlement-only class context, since the court will lack the usual opportunity to adjust the class as proceedings unfold. (*Id.* at p. 94.)

At preliminary approval, the Court provisionally certified the above-described Class, and it does not find any reasons to depart from that ruling at this time. Consequently, the Court will certify the Class for settlement purposes.

IV. TERMS AND ADMINISTRATION OF SETTLEMENT

The non-reversionary gross settlement amount is $220,000. Attorneys' fees of up to 35% of the gross settlement amount ($77,000), litigation costs of up to $20,000, and settlement administration costs of up to $7,500. $5,000 will be allocated to PAGA penalties, 75% of which ($3,750) will be paid to the LWDA, with the remaining 25% ($1,250) will be dispensed to "Aggrieved Employees," who are defined as "a person employed by Defendant in California and classified as an hourly-paid or non-exempt employee who worked for Defendant during the PAGA Period [December 12, 2022 to August 23, 2024]." Plaintiff will seek a Class representative service award of up to $5,000.

The net settlement amount—estimated to be $110,011.73—will be allocated to Class Members. The average individual settlement payment will be approximately $763.97. For tax

purposes, 20% of each Class Member's settlement payment will be allocated to wages and 80% will be allocated to interests and penalties. Funds associated with checks uncashed after 180 days will be transmitted to Legal Aid at Work.

In exchange for settlement, Class Members who do not opt out will release:

> All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all claims asserted or that could have been asserted based on the facts pled in the operative complaints, including but not limited to, state wage and hour claims for any and all violations of California's Labor Code and Unfair Competition Law based on Defendant's failure to pay for all hours worked (including minimum, straight time, and overtime wages), failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination, failure to furnish accurate itemized wage statements, failure to produce requested employment records, and failure to indemnify employees for expenditures based on the alleged Labor Code violations, and all damages, interest, penalties, attorneys' fees, costs, and other amounts recoverable under said causes of action under California law, to the extent permissible, including, but not limited to, the California Labor Code and the applicable Wage Orders. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside of the Class Period.

Aggrieved Employees, who consistent with the statute will not be able to opt out of the PAGA portion of the settlement, will release:

> [A]ll claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and

the PAGA Notice, including any and all claims involving any alleged failure to pay minimum wages or overtime, failure to provide meal and rest periods, failure to provide accurate wage statements, failure to pay all wages due at separation, failure to produce requested employment records, and failure to reimburse business expenses, including Labor Code sections 201, 202, 203, 210, 216, 223, 225.5, 226, 226.3, 226.7, 245-248.5, 256, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2699.3, 2802, 2810.5 during the PAGA Period. Aggrieved Employees only release these claims for the duration of the PAGA Period.

The notice period has now been completed. Madely Nava ("Nava"), a case manager for Apex, submitted a declaration in support of the instant motion. On June 5, 2026, defense counsel provided the Class list to Apex. In turn, Apex reviewed the data and verified the information against the National Change of Address database. On June 22, 2026, Apex sent Class notices to 144 individuals. 14 Class notices were returned as undeliverable. Apex conducted a skip trace on them and obtained 10 updated addresses. As of the date of Nava's declaration, 4 Class notices have been considered undeliverable.

The deadlines to respond were August 21, 2026, and September 4, 2026 for any Class Member who received a re-mailed notice. As of the date of Nava's declaration, Apex has received 0 requests for exclusion, 0 objections to the Settlement, and 0 workweek disputes. Consequently, there are 144 participating Class members, representing 100% of the Class. The average individual payment is $763.97, with the highest being $5,131,03. The average PAGA payment is $21.55, with the highest being $54.51.

Plaintiff requests $6,590 for settlement administration costs. This request is supported by Nava's declaration. Thus, the amount is reasonable and therefore, it is approved.

At the preliminary approval, the Court found that the proposed settlement provides a fair and reasonable compromise to Plaintiff's claims. It finds no reason to depart from these findings now, especially considering that there are no objections. Therefore, the Court finds that the Settlement is fair and reasonable for the purposes of final approval.

V. ATTORNEYS' FEES, LITIGATION COSTS, AND PLAINTIFF'S SERVICE AWARD

Class Counsel seeks a fee award of $77,000 or 35% of the gross settlement amount, which is not an uncommon contingency fee in a wage and hour class action. Class Counsel provides a lodestar figure of $90,840, based on 92.9 hours at billing rates ranging from $750 to $1,500 per hour, resulting in a negative multiplier of 0.77, which is below the range of multipliers that courts typically approve. (See *Wershba, supra*, 91 Cal.App.4th at p. 255 ["[m]ultipliers can range from 2 to 4 or even higher"]; *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051, fn. 6 [stating that multipliers ranging from one to four are typical in common fund cases and citing the court's own survey of large settlements funding a range of 0.6-19.6, with most (20 to 24, or 83%) from 1.0-4.0 and a bare majority (13 of 24, or 54%) in the 1.5-3.0 range"].)

"While the percentage method has been generally approved in common fund cases, courts have sought to ensure the percentage fee is reasonable by refining the choice of a percentage or by checking the percentage result against the lodestar-multiplier calculation." (*Laffitte v. Robert Half Intern, Inc.* (2016) 1 Cal.5th 480, 495 (*Laffitte*).) Applying the latter approach,

> [T]he percentage-based fee will typically be larger than the lodestar based fee. Assuming that one expects rough parity between the results of the percentage method and the lodestar method, the difference between the two computed fees will be attributable solely to a multiplier that has yet to be applied. Stated another way, the ratio of the percentage-based fee to the lodestar-based fee implies a multiplier, and that implied multiplier can be evaluated for reasonableness. If the implied multiplier is reasonable, then the cross-check confirms the reasonableness of the percentage-based fee; if the implied multiplier is unreasonable, the court should revisit its assumptions.

(*Laffitte, supra,* 1 Cal.5th at p. 496, quoting Walker & Horwich, *The Ethical Imperative of a Lodestar Cross-check: Judicial Misgivings About "Reasonable Percentage" Fees in Common*

Fund Cases (2005) 18 Geo. J. Legal Ethics 1453, 1463.) As described by the California Supreme Court, "[i]f the multiplier calculated by means of a lodestar crosscheck 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." (*Laffitte, supra,* 1 Cal.5th at 505.)

Here, the multiplier sought by Class Counsel is below the range California courts typically award, and it is supported by the percentage cross-check and Class Counsel's declaration. Thus, the Court finds Class Counsel's requested fee award is reasonable.

Class Counsel also seeks $16,398.27 in litigation costs. This is below the $20,000 allowed for in the Settlement. Moreover, the request is supported by Class Counsel's declaration. Thus, Class Counsel's request is reasonable and therefore, it is approved.

Plaintiff requests a Class Representative Enhancement payment of $5,000.

> The rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class. An incentive award is appropriate if it is necessary to induce an individual to participate in the suit. Criteria courts may consider in determining whether to make an incentive award include: 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. These "incentive awards" to class representatives must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit.

(*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395, internal punctuation and citations omitted.) Incentive awards are particularly appropriate where a plaintiff undertakes a significant reputational risk in bringing an action against an employer. (*Covillo v. Specialty's Café* (N.D. Cal. 2014) 2014 U.S.Dist.LEXIS 29837, at *29.)

At preliminary approval, the Court found that Plaintiff is entitled to an award and preliminarily approved the request. The Court does not find any reason to depart from this ruling at this time. Thus, Plaintiff's request is approved.

VI. CONCLUSION

In accordance with the above, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

Plaintiff's motion for final approval is GRANTED. The following Class is certified for settlement purposes only:

> All past and present non-exempt employee in the state of California who worked for Defendant at any time during the Class Period.

Judgment will be entered through the filing of this order and judgment. (Code Civ. Proc., § 668.5.) The members of the Class will take only the relief set forth in the settlement agreement and this order and judgment. Pursuant to Rule 3.769(h) of the California Rules of Court, the Court will retain jurisdiction over the parties to enforce the terms of the settlement agreement and the final order and judgment.

The Court sets a compliance hearing for **July 29, 2027 at 2:30 P.M.** in Department 22. At least ten court days before the hearing, class counsel and the settlement administrator shall submit a summary accounting of the net settlement fund identifying distributions made as ordered herein; the number and value of any uncashed checks; amounts remitted pursuant to Code of Civil Procedure section 384, subdivision (b); the status of any unresolved issues; and any other matters appropriate to bring to the Court's attention. Counsel shall also submit an amended judgment as described in Code of Civil Procedure section 384, subdivision (b). Counsel may appear at the compliance hearing remotely.

IT IS SO ORDERED.

Date: 11-19-24

BETH MCGOWEN
Judge of the Superior Court