FILED
11/5/26
Clerk of the Court
Superior Court of CA
County of Santa Clara

24CV440710

By: fbryant

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

ARTHUR ABLAY, ALLEN JARDIN and JOPERCY BELTRAN, individually and on behalf of other members of the general public similarly situated, and as aggrieved employees pursuant to the Private Attorneys General Act ("PAGA"), on behalf of the State of California and other aggrieved employees,

Plaintiffs,

v.

MORNINGSTAR SENIOR MANAGEMENT, LLC, a Colorado limited liability company; MORNINGSTAR SENIOR LIVING, LLC, a Colorado limited liability company; and DOES 1 through 10, inclusive,

Defendants.

Case No. 24CV440710

ORDER GRANTING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

This is a class and Private Attorneys General Act ("PAGA") action. Plaintiffs Arthur Ablay, Allen Jardin, and Jopercy Beltran (collectively, "Plaintiffs") allege that defendants Morning Senior Management, LLC and Morningstar Senior Living, LLC (collectively, "Defendants") committed various wage and hour violations.

Before the Court is Plaintiffs' motion for final approval of class action and PAGA settlement, which is unopposed. As discussed below, the Court GRANTS the motion.

I. BACKGROUND

According to the operative first amended complaint ("FAC"), Plaintiff Ablay worked for Defendants' facility in Pasadena from July 2023 to October 2023 as a Caregiver. (FAC, ¶ 4.) Plaintiff Jardin worked for Defendants' facility in Pasadena from July 2023 to October 2023. (FAC, ¶ 5.) Plaintiff Beltran worked for Defendants in Alameda County. (FAC, ¶ 6.) Defendant failed to: pay all wages (including minimum and overtime wages); timely pay wages; provide compliant meal periods or compensation in lieu thereof; provide rest breaks or compensation in lieu thereof; pay wages upon termination; provide complete and accurate wage statements; maintain complete and accurate payroll records; timely pay wages; pay sick leave benefit; and reimburse for business related expenses. (FAC, ¶¶ 26-40.)

Based on the foregoing, Plaintiffs Ablay and Jardin initiated this action on June 7, 2024, with the filing of the Complaint, which asserted a single claim for PAGA penalties. On April 7, 2026, Plaintiffs filed the operative FAC, which asserts the following causes of action: (1) violation of Labor Code §§ 226.7, 512, subd. (a), 516, and 1198 (failure to provide meal periods); (2) violation of Labor Code §§ 226.7, 516, and 1198 (failure to authorize and permit rest periods); (3) violation of Labor Code §§ 510 and 1198 (unpaid overtime); (4) violation of Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (unpaid minimum wages); (5) violation of Labor Code §§ 226, 1174, subd. (d), and 1198 (non-compliant wage statements and failure to maintain payroll records); (6) violation of Labor Code § 227.3 (failure to pay vested vacation time upon termination); (7) violation of Labor Code §§ 201, 202, and 203 (wages not timely paid upon termination); (8) violation of Labor Code §§ 204 and 210 (failure to timely pat wages during employment); (9) violation of Labor Code § 2802 (unreimbursed business expenses); (10) civil penalties for violations of Labor Code §§ 2698, *et seq.*; (11) violation of Business & Profession §§ 17200, *et seq.* (unlawful business practices); and (12) violation of Business & Profession §§ 17200, *et seq.* (unfair business practices). On May 1, 2026, the Court granted Plaintiffs' motion for preliminary approval.

Plaintiff now moves for an order finally approving: the Joint Stipulation of Class Action and PAGA Settlement and Release (the "Settlement"); payments to Class Members, PAGA

Members, and the Labor and Workforce Development Agency ("LWDA"); and costs to settlement administrator CPT Group ("CPT").

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 current and former California non-exempt employees of Defendants who worked for Defendants during the Class Period [September 18, 2020, through July 14, 2025], and who did not execute an arbitration agreement.

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 as requested.

IV. TERMS AND ADMINISTRATION OF SETTLEMENT

The non-reversionary gross settlement amount is $450,000. Attorneys' fees of up to one-third of the gross settlement amount ($150,000), litigation costs of up to $25,000, and administrative costs of up to $10,000. $20,000 will be allocated to PAGA penalties, with 75% ($15,000) paid to the LWDA, and the remaining 25% ($5,000) will be distributed to "PAGA Members" who are defined as "[a]ll California non-exempt employees of Defendants who worked during the PAGA Period [April 1,2023 through July 15, 2025], including those individuals who have signed arbitration agreements." Plaintiffs will each see enhancement payments of $10,000 each—totaling $30,000.

The net settlement amount—which is estimated to be $221,534.66—will be allocated to Class Members. The average individual payment will be approximately $58.31. For tax purposes, 10% of each individual payment will be allocated to wages and 90% will be allocated to non-wages. Funds associated with checks uncashed after 180 days will be transmitted to The Justice Gap Fund.

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

> [A]ll claims, rights, demands, liabilities, and causes of action that are alleged in the First Amended Complaint, or which could have been alleged by reason of, or in connection with, any matter or fact set forth or referred to in the First Amended Complaint, including t, including claims for violation of: (a) California Labor Code §§ 226.7, 512(a), 516, and 1198 (failure to provide all meal periods); (b) California Labor Code §§ 226.7, 510, and 1198 (failure to include all forms of remuneration in the regular rate of pay for purposes of paying overtime wages and/or meal and rest period premiums); (c) California Labor Code §§ 226.7, 516, and 1198 (failure to authorize and permit all rest periods); (d) 510 and 1198 (failure to pay all overtime compensation); (e) California Labor Code §§ 1182.12,

1194, 1197, and 1198 (failure to pay at least minimum wages for all hours worked); (f) California Labor Code §§ 226(a), 1174(d), and 1198 (failure to provide accurate wage statements and maintain accurate payroll records); (g) California Labor Code §§ 201 and 202 (failure to timely pay all earned wages upon termination); (h) h) California Labor Code § 204 (failure to timely pay all earned wages during employment); (i) California Labor Code § 246 (failure to properly calculate sick leave pay); (j) California Labor Code § 2802 (failure to reimburse business expenses); (k) California Labor Code § 227.3 (failure to pay all accrued and vested vacation/PTO); and (l) California Labor Code §§ 6401 and 6403 (failure to provide safety devices and safeguards).

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

> [All] claims for civil penalties under California Labor Code §§ 2698, *et seq.*, that were brought or could reasonably have been brought based on the same facts alleged in Plaintiffs' LWDA letters during the PAGA Period.

The notice period has now been completed. Laura Singh ("Singh") on behalf of settlement administration CPT submitted a declaration in support of the instant motion. On May 1, 2026, CPT received the notice packet and on May 26, 2026, it received the Class list from defense counsel. On June 12, 2026, CPT mailed notice packets to 385 Class Members., 21 notice packets were returned as undeliverable and as of the date of Singh's declaration, 14 were re-mailed because a better mailing address was found. 8 notice packets were unable to be delivered.

The deadline to respond was July 27, 2026. As of the date of Singh's declaration, CPT received 1 valid request for exclusion and 0 objections. The average estimated individual payment is $558.31, with the highest being $2,736.14. The average estimated PAGA payment is $6.13, with the highest being $17.66.

Plaintiffs request $10,050 for administration costs. This request is supported by Singh'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 Plaintiffs' 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 $150,000 or one-third 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 $198,652.50, based on 265 hours at billing rates ranging from $550 to $1,050 per hour, resulting in a negative multiplier of 0.75, 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 declarations. Thus, the Court finds Class Counsel's requested fee award is reasonable.

Class Counsel also seeks $18,415.34 in litigation costs, which is below the $25,000 allowed for in the Settlement. The request is supported by Class Counsel's declarations. This amount is reasonable and thus, it is approved.

Plaintiffs request a Class Representative Enhancement payment of $10,000 each-totaling $30,000.

> 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.)

Plaintiffs submitted their declaration in support of the request. Plaintiff Ablay states he spent between 25 to 35 hours on this action, which includes communicating with Class Counsel; reviewing documents; and providing information. (Plaintiff Ablay Declaration ("Decl."), ¶¶ 7-8, 11-12.) He considered the responsibilities associated with his role as a Class representative. (Plaintiff Ablay Decl., ¶ 4.) Similarly, Plaintiff Jardin states he spent between 25 to 35 hours on this action, which includes providing information; communicating with Class Counsel; and reviewing documents. (Plaintiff Jardin Decl., ¶¶ 7-8, 11-12.) He considered the responsibilities associated with his role as a Class representative. (Plaintiff Jardin Decl., ¶ 4.) Plaintiff Beltran estimates spending 35to 40 hours on this action, which includes communicating with Class Counsel; providing information; and reviewing documents. (Plaintiff Beltran Decl., ¶¶ 7-8.) Plaintiff Beltran also considered the responsibilities of participating in this action. (Plaintiff Beltran Decl., ¶ 9.) Thus, the Court finds Plaintiffs are entitled to service awards and the amounts requested are reasonable. Accordingly, Plaintiffs request to service awards in the amount of $10,000 each—totaling $30,000 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 current and former California non-exempt employees of Defendants who worked for Defendants during the Class Period, and who did not execute an arbitration agreement.

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 15 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: 11-5-26

BETH MCGOWEN
Judge of the Superior Court