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Superior Court of CA
County of Santa Clara
23CV424964
By: fbryant

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

ARLEN F. ALCANTAR and DAVID CHIANG,
individuals, on behalf of themselves and others
similarly situated,

Plaintiffs,

v.

KIDANGO, INC., a California corporation and
DOES 1 through 50, inclusive,

Defendants.

Case No. 23CV424964

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

This is a putative class and Private Attorneys General Act ("PAGA") action. Plaintiffs Arlen Alcantar and David Chiang (collectively, "Plaintiffs") allege that defendant Kidango, Inc. committed various wage and hour violations.

Before the Court is Plaintiffs' 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 second amended complaint ("SAC"), Defendant failed to: timely pay wages, pay overtime wages, provide compliant meal and rest periods or compensation in lieu thereof; and maintain timekeeping records.

1 Based on the foregoing, Plaintiff Alcantar initiated this action on October 30, 2023, with
2 the filing of the complaint and on January 4, 2024, she filed her first amended complaint. On
3 March 21, 2025, Plaintiffs filed the operative SAC, which asserts the following claims: (1)
4 failure to pay minimum wages; (2) failure to pay wages and overtime (Lab. Code § 510); (3)
5 meal period liability (Lab. Code §§ 226.7 & 512); (4) rest break liability (Lab. Code § 226.7 &
6 512); (5) violation of Labor Code § 226; (6) violation of Labor Code § 221; (7) violation of
7 Labor Code § 204; (8) violation of Labor Code §§ 201-203; (9) failure to maintain records (Lab.
8 Code §§ 1174, & 1174.50); (10) failure to produce requested records (Lab. Code §§ 226 & 198);
9 (11) failure to reimburse necessary business expenses (Lab. Code § 2802); (12) violation of
10 Business & Professions Code § 17200, *et seq.*; (13) civil penalties under the PAGA (Lab. Code §
11 2698 *et seq.*; and (14) failure to pay sick wages (Lab. Code §§ 201-203, 210, 233, 246). On
12 September 8, 2025, the Court issued its order which granted Plaintiffs' motion for preliminary
13 approval of class and PAGA settlement.

14 Plaintiffs now seek an order: certifying the class ("Class") for settlement purposes;
15 confirming Plaintiffs as Class representatives; approving the settlement; confirming appointment
16 of Class counsel; approving Class Representative payments to Plaintiffs; approving attorneys'
17 fees and costs; and entering judgment.

18 **II. MOTION FOR FINAL APPROVAL**

19 **A. Legal Standard**

20 **i. Class Action**

21 Generally, "questions whether a [class action] settlement was fair and reasonable,
22 whether notice to the class was adequate, whether certification of the class was proper, and
23 whether the attorney fee award was proper are matters addressed to the trial court's broad
24 discretion." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234–235 (*Wershba*),
25 disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th
26 260.)

27 In determining whether a class settlement is fair, adequate and reasonable, the
28 trial court should consider relevant factors, such as the strength of plaintiffs' case,

1 the risk, expense, complexity and likely duration of further litigation, the risk of
2 maintaining class action status through trial, the amount offered in settlement, the
3 extent of discovery completed and the stage of the proceedings, the experience
4 and views of counsel, the presence of a governmental participant, and the reaction
5 of the class members to the proposed settlement.

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

7 In general, the most important factor is the strength of the plaintiffs’ case on the merits,
8 balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008)
9 168 Cal.App.4th 116, 130 (*Kullar*).) But the trial court is free to engage in a balancing and
10 weighing of relevant factors, depending on the circumstances of each case. (*Wershba, supra*, 91
11 Cal.App.4th at p. 245.) The trial court must examine the “proposed settlement agreement to the
12 extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or
13 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a
14 whole, is fair, reasonable and adequate to all concerned.” (*Ibid.*, citation and internal quotation
15 marks omitted.) The trial court also must independently confirm that “the consideration being
16 received for the release of the class members’ claims is reasonable in light of the strengths and
17 weaknesses of the claims and the risks of the particular litigation.” (*Kullar, supra*, 168
18 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be
19 “provided with basic information about the nature and magnitude of the claims in question and
20 the basis for concluding that the consideration being paid for the release of those claims
21 represents a reasonable compromise.” (*Id.* at pp. 130, 133.)

22 B. PAGA

23 Labor Code section 2699, subdivision (1)(2) provides that “[t]he superior court shall
24 review and approve any settlement of any civil action filed pursuant to” PAGA. The court’s
25 review “ensur[es] that any negotiated resolution is fair to those affected.” (*Williams v. Superior*
26 *Court* (2017) 3 Cal.5th 531, 549.) Seventy-five percent of any penalties recovered under PAGA
27 go to the Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-
28 five percent for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC*

1 (2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v.*
2 *Moriana* (2022) 596 U.S. 639 , 2022 U.S. LEXIS 2940.)

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
6 Cal.App.5th 56, 76–77.) It must make this assessment “in view of PAGA’s purposes to
7 remediate present labor law violations, deter future ones, and to maximize enforcement of state
8 labor laws.” (*Id.* at p. 77; see also *Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383
9 F. Supp. 3d 959, 971 [“when a PAGA claim is settled, the relief provided for under the PAGA
10 [should] be genuine and meaningful, consistent with the underlying purpose of the statute to
11 benefit the public”], quoting LWDA guidance discussed in *O’Connor v. Uber Technologies,*
12 *Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O’Connor*).)

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

19 **C. Settlement Class**

20 Plaintiffs request that the following Class be certified for settlement purposes.

21 All individuals employed as non-exempt, hourly employees by Kidango, Inc.
22 within the State of California during the Class Period [October 30, 2019 through
23 November 30, 2024].¹

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25
26 ¹ The escalator clause was triggered, thus, in order to avoid exceeding the 111,038 workweeks threshold,
27 Defendant elected to end the Class Period on November 30, 2024, pursuant to Paragraph 8 of the Settlement
28 Agreement—resulting in 111,004 total workweeks. (Motion, p. 1, fn. 1.)

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

6 Section 382 requires the plaintiff to demonstrate by a preponderance of the evidence:
7 (1) an ascertainable class and (2) a well-defined community of interest among the class
8 members. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, 332 (*Sav-On*
9 *Drug Stores*)). “Other relevant considerations include the probability that each class member
10 will come forward ultimately to prove his or her separate claim to a portion of the total recovery
11 and whether the class approach would actually serve to deter and redress alleged wrongdoing.”
12 (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) The plaintiff has the burden of
13 establishing that class treatment will yield “substantial benefits” to both “the litigants and to the
14 court.” (*Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385.)

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

23 At preliminary approval, the Court provisionally certified the above-described class,
24 determining that Plaintiffs demonstrated by a preponderance of the evidence (1) an ascertainable
25 class, (2) a well-defined community of interest among the class members and (3) that a class
26 action provides substantial benefits to both litigants and the Court. Consequently, the Court will
27 certify the Class for settlement purposes as requested.

1 **D. Terms and Administration of Settlement**

2 The non-reversionary gross settlement amount is \$1,990,000. Attorneys' fees up to one-
3 third of the gross settlement amount, which is approximately \$663,333.33; litigation costs of up
4 to \$45,000.00; and administrative costs of up to \$14,500.00. \$70,000.00 will be allocated to
5 PAGA penalties, 75% of which (\$52,500.00) will be paid to the LWDA, with the remaining 25%
6 (\$17,500.00) will be dispensed, on a pro rata basis, to "Aggrieved Employees" who are defined
7 as "all individuals employed as non-exempt, hourly employees by Defendant within the State of
8 California during the PAGA Period."² Plaintiffs will seek Class representative payments of
9 \$10,000.00 each—totaling \$20,000.00.

10 Class Counsel fails to provide a net settlement amount but based on the information
11 provided, the Court estimates the net settlement amount to be \$1,177,166.67, which will be
12 allocated to Class members. For tax purposes, 20% of each Class member's individual payment
13 will be allocated to wages and 80% will be allocated to interest and penalties. Funds associated
14 with checks uncashed after 180 days will be transmitted to the Controller of the State of
15 California to be held in trust for such Class members pursuant to California unclaimed property
16 law. Plaintiffs will seek Class representative awards of \$10,000 each—totaling \$20,000.

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

18 All claims, rights, demands, liabilities, and causes of action that are alleged, or
19 reasonably could have been alleged based on the facts asserted in the Operative
20 Complaint that occurred during the Class Period, including the following claims:
21 (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime
22 Under Labor Code§ 510; (3) Meal Period Liability Labor Code § 226.7; (4) Rest-
23 Break Liability Labor Code§ 226.7; (5) Violation of Labor Code§ 226; (6)
24 Violation of Labor Code§ 221; (7) Violation of Labor Code§ 204; (8) Violation of
25 Labor Code§ 203; (9) Failure to Maintain Records Required under Labor Code §§
26 1174, 1174.5; (10) Failure to Produce Requested Records under §§ 226 and 1198;

27
28 ²The "PAGA Period" is defined as "the period from October 30, 2022, and continuing through the date of preliminary approval.

1 (11) Failure to Reimburse Necessary Business Expenses under Labor Code§
2 2802; (12) Violation of Business & Professions Code§ 17200, *et seq.*; (13) claims
3 under Labor Code Section 246 *et seq.* and related laws for Paid Sick Leave
4 violations; and (14) all claims under the Wage Orders, including suitable seating
5 claims.³

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

8 All claims for the recovery for civil penalties, attorneys' fees and costs
9 permissible under PAGA which Plaintiffs and/or the Aggrieved Employees had,
10 or may claim to have, against Released Parties, which were alleged or were based
11 on the facts in the Operative Complaint and/or the PAGA Notices submitted in
12 connection with the Alcantar and Chiang Actions, including failure to pay
13 overtime compensation, failure to pay minimum wages, failure to provide
14 compliant meal and rest breaks, failure to pay meal and rest period premiums,
15 failure to pay all wages owed at discharge or resignation; failure to timely pay
16 wages during employment; failure to provide complete and accurate wage
17 statements; failure to keep complete and accurate payroll records; failure to
18 provide one day's rest from seven; failure to reimburse necessary business-related
19 expenses; failure to provide suitable seating, and violations of Labor Code
20 sections 201, 202, 203, 204, 221, 226(a), 226.3, 226.7, 246, *et seq.*, 510,512(a),
21 1174(d), 1194, 1197, 1197.1, 1198, 2698, *et seq.*⁴

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25 ³ The release expressly excludes all other claims, including claims for vested benefits, wrongful
26 termination, violation of the Fair Employment and Housing Act, retaliation, discrimination, unemployment
insurance, disability, social security, workers compensation, and Class claims outside of the Class Period.

27 ⁴This release expressly excludes other PAGA claims, claims for vested benefits, wrongful
28 termination, discrimination, unemployment insurance, disability, social security, and worker's
compensation, and PAGA claims outside of the PAGA Period.

1 The notice period has now been completed. Stacey Shim ("Shim"), a case
2 manager for settlement administrator Apex, submitted a declaration in support of the
3 instant motion. Shim states that on September 10, 2025, Apex received the notice packet
4 from Class Counsel and on November 10, 2025, defense counsel provided the Class data
5 file including the names, last known mailing addresses, and social security numbers of
6 the Class Members and/or Aggrieved Employees.

7 The names and addresses were verified and updated against the National Change
8 of Address Database. On November 26, 2025, the notice packets were sent to 1,042 Class
9 Members. As of the date of Shim's declaration, 21 class notices have been returned as
10 undeliverable. Apex was able to locate 18 updated addresses and the Class notices were
11 promptly re-mailed. Thus, 3 notices were undeliverable.

12 The deadline to respond was January 26, 2026, and as of the date of Shim's
13 declaration, Apex received one (1) request for exclusion, zero (0) objections, and zero (0)
14 workweek disputes. To avoid exceeding 111,038 workweeks, Defendant established the
15 end of the Class Period as November 30, 2024, pursuant to the settlement agreement. The
16 total number of workweeks worked by participating Class members during the Class
17 Period is 111,004. The PAGA period end date remains September 5, 2025. As a result of
18 the Class Period ending before the PAGA Period, 95 individuals out of the 1,042
19 individuals were hired after the end of the Class Period which renders them ineligible to
20 receive an Individual Class Payment. Thus, there are 947 Class Members. Consequently,
21 there are 946 participating Class Members. The average individual payment will be
22 \$1,201,510.10, the highest payment will be \$2,894.03 and the lowest will be \$32.52. The
23 average PAGA payment will be \$21.29, the highest will be \$35.72, and the lowest will be
24 \$0.51.

25 The settlement provides for administration costs for up to \$14,500. Shim's declaration
26 supports costs to Apex in the amount of \$14,500. This amount is reasonable and therefore, it is
27 approved.

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

5 **E. Attorneys' Fees, Litigation Costs, and Plaintiffs' Service Award**

6 Class Counsel seeks a fee award of \$663,333.33, or one-third of the gross settlement
7 amount, which is not an uncommon contingency fee in a wage and hour class action. Class
8 Counsel provide a lodestar figure of 256,979.00 based on 348.9 hours of work at billing rates
9 ranging from \$475 to \$1,260, resulting in a multiplier of 2.58. This is within the range of
10 multipliers that courts typically approve. (See *Wershba, supra*, 91 Cal.App.4th at p. 255
11 ["[m]ultipliers can range from 2 to 4 or even higher"]; *Vizcaino v. Microsoft Corp.* (9th Cir.
12 2002) 290 F.3d 1043, 1051, fn. 6 [stating that multipliers ranging from one to four are typical in
13 common fund cases and citing the court's own survey of large settlements funding a range of
14 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
15 1.5-3.0 range"].)

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

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

3 (*Laffitte, supra*, 1 Cal.5th at p. 496, quoting Walker & Horwich, *The Ethical Imperative of a*
4 *Lodestar Cross-check: Judicial Misgivings About "Reasonable Percentage" Fees in Common*
5 *Fund Cases* (2005) 18 Geo. J. Legal Ethics 1453, 1463.) As described by the California
6 Supreme Court, "[i]f the multiplier calculated by means of a lodestar crosscheck is
7 extraordinarily high or low, the trial court should consider whether the percentage used should be
8 adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not
9 necessarily required to make such an adjustment." (*Laffitte, supra*, 1 Cal.5th at 505.)

10 Here, the multiplier sought by Class Counsel is within the range of modifiers typically
11 approved by courts, is supported by the percentage cross-check as well as the declarations
12 submitted by Class Counsel Enoch J. Kim and Kyle Nordrehaug. Thus, the Court finds Class
13 Counsel's requested fee award is reasonable.

14 Class Counsel also seek \$20,656.57 in litigation costs, which is lower than the \$45,000
15 allowed for in the Settlement. The request is supported by Class Counsel's declarations. This
16 amount is reasonable and thus, it is approved.

17 Plaintiffs request a service payment award of \$10,000 each-totaling \$20,000.

18 The rationale for making enhancement or incentive awards to named plaintiffs is
19 that they should be compensated for the expense or risk they have incurred in
20 conferring a benefit on other members of the class. An incentive award is
21 appropriate if it is necessary to induce an individual to participate in the suit.
22 Criteria courts may consider in determining whether to make an incentive award
23 include: 1) the risk to the class representative in commencing suit, both financial
24 and otherwise; 2) the notoriety and personal difficulties encountered by the class
25 representative; 3) the amount of time and effort spent by the class representative;
26 4) the duration of the litigation and; 5) the personal benefit (or lack thereof)
27 enjoyed by the class representative as a result of the litigation. These "incentive
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1 awards” to class representatives must not be disproportionate to the amount of
2 time and energy expended in pursuit of the lawsuit.

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

7 At the preliminary approval, the Court preliminarily approved Plaintiffs’ requests for
8 service awards. Having review Plaintiffs’ declaration, the Court does not find any reason to
9 depart from that finding. Thus, Plaintiffs’ request for service awards in the amount of \$10,000-
10 totaling \$20,000 is approved.

11 **III. CONCLUSION**

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

14 Plaintiffs’ motion for final approval is GRANTED. The following Class is certified for
15 settlement purposes only:

16 All individuals employed as non-exempt, hourly employees by Kidango, Inc.
17 within the State of California during the Class Period.

18 Judgment will be entered through the filing of this order and judgment. (Code Civ. Proc.,
19 § 668.5.) Plaintiffs and the members of the Class will take from the SAC only the relief set forth
20 in the settlement agreement and this order and judgment. Pursuant to Rule 3.769(h) of the
21 California Rules of Court, the Court will retain jurisdiction over the parties to enforce the terms
22 of the settlement agreement and the final order and judgment.

23 The Court sets a compliance hearing for November 5, 2026 at 2:30 P.M. in Department
24 22. At least ten court days before the hearing, class counsel and the settlement administrator
25 shall submit a summary accounting of the net settlement fund identifying distributions made as
26 ordered herein; the number and value of any uncashed checks; amounts remitted pursuant to
27 Code of Civil Procedure section 384, subdivision (b); the status of any unresolved issues; and
28 any other matters appropriate to bring to the Court’s attention. Counsel shall also submit an

1 amended judgment as described in Code of Civil Procedure section 384, subdivision (b).

2 Counsel may appear at the compliance hearing remotely.

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5 **IT IS SO ORDERED.**

6 Date: 8/5/24

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8 BETH MCGOWEN
9 Judge of the Superior Court
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