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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

ELLIS TROTTER and MILISSE SAUNDERS, 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),

Plaintiffs,

vs.

PROPARK AMERICA WEST, LLC, a Connecticut limited liability company; PROPARK LA, LLC, a Connecticut limited liability company; PRO PARK, INC., a Connecticut corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. 20CV365254

Assigned to the Hon. Theodore C. Zayner

[~~PROPOSED~~] ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

Date: June 4, 2025
Time: 1:30 p.m.
Place: Department 19

Complaint Filed: March 19, 2020
Trial Date: None Set

I. Introduction

This is a putative class and representative action arising from alleged wage and hour violations. Plaintiff Ellis Trotter began this action on March 19, 2020, by filing a class action complaint against defendants Propark America West, LLC, Propark LA, LLC, and Pro Park, Inc. (collectively, "Defendants"). On February 10, 2023, plaintiffs Ellis Trotter and Milisse Saunders (collectively, "Plaintiffs") filed the operative second amended complaint, asserting the following causes of action: (1) unpaid overtime; (2) unpaid minimum wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to provide heat recovery periods; (6) non-compliant wage statements and failure to maintain payroll records; (7) wages not timely paid upon termination; (8) failure to timely pay wages during employment; (9) unreimbursed business expenses; (10) civil penalties under the Private Attorneys General Act ("PAGA"); (11) unlawful business practices; and (12) unfair business practices.

The parties have reached a settlement. Plaintiffs now move for preliminary approval of the settlement. The motion is unopposed.

II. Legal Standard for Settlement Agreements

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 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 burden is on the proponent of the settlement to show that it is fair and reasonable. However, "a presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small." (*Wershba*, *supra*, 91 Cal.App.4th at p. 245, citation omitted.)

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.)

Like 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 considering 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, 2016 U.S. Dist. LEXIS 140759, at *20-24.)

III. Discussion

A. Provisions of the Settlement

This case has been settled on behalf of the following class:

> [A]ll persons who worked for Defendants as non-exempt, hourly paid employees in California during the Class Period [March 3, 2020 through November 2, 2024], and who did not execute an arbitration related to their employment with Defendants.

(Declaration of Raul Perez ("Perez Decl."), Ex. 1 ("Agreement"), ¶¶ 6, 8.) The settlement includes a subset group of PAGA Members defined as: "all persons who worked for Defendants as non-exempt, hourly paid employees in California during the PAGA Period [March 3, 2020 through November 2, 2024]." (*Id.* at ¶¶ 18-19.)

Defendant will pay a gross settlement amount of $1,310,000, subject to an escalator clause. (Agreement, ¶¶ 14, 34.) The gross settlement amount includes attorney fees of up to one-third of the gross settlement amount (i.e., $436,667); litigation costs not to exceed $35,000; a PAGA allocation of 60 percent of the net settlement fund (i.e., $475,999.80, 75 percent of which will be paid to the LWDA and 25 percent of which will be paid to PAGA Employees as individual PAGA payments); a total of up to $30,000 in service payments (i.e., $15,000 each) and settlement administration costs up to $15,000. (*Id.* at ¶¶ 20, 35, 36, 37, 38.) The net settlement amount will be distributed to participating class members on a pro-rata basis according to the number of workweeks they were employed by Defendant. (*Id.* at ¶ 42.) Individual PAGA payments will be distributed according to the number of pay periods worked. (*Ibid.*) The Agreement provides that CPT Group, Inc. ("CPT Group") will serve as the neutral entity appointed to administer the settlement. (*Id.* at ¶ 32.) The court approves and appoints CPT Group as the settlement administrator.

The Agreement further provides that any funds from settlement checks remaining uncashed after the void date (180 days after mailing) will be tendered pursuant to Code of Civil Procedure section 384 to The Justice Gap Fund maintained by The State Bar of California. The court approves the *cy pres* designation.

In exchange for the settlement, the class members agree to release Defendant and related entities and persons "from all claims, rights, demands, liabilities, and causes of action that are asserted in the operative Complaint during the Class Period, or that reasonably could have been alleged, based on the facts alleged in the operative Complaint during the Class Period[.]" (Agreement, ¶¶ 26, 28.) PAGA Members are deemed to release Defendant and related entities and persons "from all claims and/or causes of action for PAGA civil penalties that were alleged, or reasonably could have been alleged, based on the facts alleged in the original complaint, first amended complaint, letter to the Labor and Workforce Development Agency, or which reasonably arise out or reasonably relate to such facts." (*Id.* at ¶¶ 27-28.) The release provisions are appropriately tailored to the factual allegations of the operative pleading. (See *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 538.)

B. Fairness of the Settlement

Plaintiffs contend that the Agreement meets the standards for preliminary approval. (Motion, pp. 14:1 – 23:5.) Plaintiffs' counsel states that the parties participated in mediation with Louis Marlin on May 27, 2022, and with Daniel Turner on August 29, 2024. (Perez Decl., ¶¶ 4 – 5.) After filing the complaint, Plaintiffs' counsel received a substantial amount of information with which to value the class and PAGA claims, include policies and a complete production of class members' contact information and time and wage records. (*Id.* at ¶ 9.) According to Plaintiffs' analysis, Defendants' estimated total maximum exposure for all class claims is approximately $1,453,497.31. (Motion, p. 18:1-13.) Plaintiffs estimate that Defendants' maximum exposure for the PAGA claims is approximately $8,040,000. (Id. at pp. 20:1 – 21:1.) Thus, Plaintiffs estimate that Defendants' combined maximum exposure is approximately $9,493,497.31.

The gross settlement amount of $1,310,000 represents approximately 13.8 percent of Defendants' estimated total maximum exposure. Therefore, the proposed settlement amount is within the general range of percentage recoveries that California courts have found to be reasonable. (See *Cavazos* *v. Salas Concrete, Inc.* (E.D. Cal., Feb 18, 2022, No. 1:19-cv-00062- DAD-EPG) 2022 U.S. Dist. LEXIS 30201, at *41-42 [citing cases approving settlements in the range of 5 to 35 percent of the maximum potential exposure].)

The court has reviewed Plaintiffs' written submissions in support of the proposed settlement. Based on the circumstances of the case, including the strength of Plaintiffs' case and potential defenses, the court finds the terms of the settlement to be fair. The settlement provides for some recovery for each class member and eliminates the risk and expense of further litigation.

C. Service Award, Fees and Costs

Plaintiffs request service awards of $15,000 each, for a total of $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.)

Prior to the final approval hearing, Plaintiffs shall each submit declarations providing an estimate of the number of hours each has spent working on this action, as well as any other facts they would like the court to consider regarding their requests for service awards.

The court also has an independent right and responsibility to review the requested attorney fees and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Plaintiffs' counsel will seek attorney fees of up to one-third of the gross settlement amount. Prior to the final approval hearing, Plaintiffs' counsel shall submit lodestar information (including hourly rate and hours worked) as well as evidence of actual litigation costs incurred and settlement administration costs.

D. Conditional Certification of Class

Plaintiffs request that the class be conditionally certified for purposes of the settlement. 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 . . . ." As interpreted by the California Supreme Court, section 382 requires: (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 (*Sav-On*).)

The "community-of-interest" requirement encompasses three factors: (1) predominant questions of law or fact; (2) class representatives with claims or defenses typical of the class; and, (3) class representatives who can adequately represent the class. (*Sav-On*, *supra*, 34 Cal.4th at p. 326.) "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.) As explained by the California Supreme Court:

> The certification question is essentially a procedural one that does not ask whether an action is legally or factually meritorious. A trial court ruling on a certification motion determines whether the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants.

(*Sav-On*, *supra*, 34 Cal.4th at p. 326, internal punctuation and citations omitted.)

Plaintiffs state there are approximately 300 class members, who can be identified from a review of Defendant's records. There are common questions regarding whether class members were subjected to common practices that violated wage and hour laws. No issue has been raised regarding the typicality or adequacy of Plaintiff as class representative. Therefore, the court finds that the proposed class should be conditionally certified for settlement purposes.

E. Class Notice

The content of a class notice is subject to court approval. "If the court has certified the action as a class action, notice of the final approval hearing must be given to the class members in the manner specified by the court." (Cal. Rules of Court, rule 3.769(f).) "The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement." (*Ibid.*) In determining the manner of the notice, the court must consider: "(1) The interests of the class; (2) The type of relief requested; (3) The stake of the individual class members; (4) The cost of notifying class members; (5) The resources of the parties; (6) The possible prejudice to class members who do not receive notice; and (7) The res judicata effect on class members." (Cal. Rules of Court, rule 3.766(e).)

Here, the form of the notice is adequate. It describes the lawsuit, explains the settlement, and states the settlement amounts, including attorney fees and payment to the named plaintiff. The notice informs class members that they may appear at the final fairness hearing to make an oral objection without filing a written objection. The notice also provides instructions for attending the final approval hearing remotely.

Accordingly, the notice is approved.

IV. Conclusion

The motion for preliminary approval of the settlement is **GRANTED**. The court sets the hearing on the motion for final approval of class action settlement, and motion for attorneys' fees, for February 18, 2026, at 1:30 p.m. in Department 19. Plaintiffs shall file the motions no later than 16 court days prior to the hearing.

IT IS SO ORDERED.

Date June 6, 2025

Hon. Theodore C. Zayner
Santa Clara County Superior Court Judge

Filed
June 9, 2025
Clerk of the Court
Superior Court of CA
County of Santa Clara
20CV365254
By: afloresca

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **June 4, 2025,** I served the document described as: **[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**on the interested parties in this action by sending [ ] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [ ] as stated on the attached service list:

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[ ] **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

[ ] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

[✓] **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted electronically via One Legal eService to the individuals listed above, as they exist on that database. This will constitute service of the document(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **June 4, 2025,** at Los Angeles, California.

Sophia Flores
Type/Print Name

Signature