UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Anthony Gregg et al. v. Monastery Camp et al.

Gregg · No. 23-cv-02760-AMO · Decided June 18, 2025

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7 ANTHONY GREGG, et al., Case No. 23-cv-02760-AMO 8 Plaintiffs, ORDER DENYING PROPOSED 9 v. SETTLEMENT SUBJECT TO RESUBMISSION 10 MONASTERY CAMP, et al., Re: Dkt. No. 90 Defendants. 11 12 13 Before the Court is a joint motion for approval of a settlement under California's Private 14 Attorneys General Act ("PAGA").

See Cal. Lab. Code § 2699. The matter is fully briefed and 15 suitable for decision without oral argument. Accordingly, the hearing set for June 26, 2025, is 16 VACATED. See Civil L.R. 7-1(b), Fed. R. Civ. Pro. 78(b).

Having read the parties' papers and 17 carefully considered their arguments and the relevant legal authority, the Court hereby DENIES 18 the parties' motion subject to resubmission for the reasons stated below. 19 I. BACKGROUND 20 This is a wage-and-hour collective action brought by former valets for one of the several 21 "camps" at the Bohemian Club.

The Court assumes familiarity with the facts and procedural 22 history of the case for purposes of this order. The parties announce they have reached a 23 settlement, which the Court briefly summarizes below. 24 • PAGA Settlement Group: All "Aggrieved Employees" of Defendants and each Released 25 Party employed in California during the "PAGA Period." 26 o "Aggrieved Employee" is defined as all non-exempt valets who worked for Defendants 27 in California during the PAGA Period and includes Plaintiff Anthony Gregg, Plaintiff 1 Shawn Granger, and Plaintiff Wallid Saad, as well as non-plaintiffs Juan Jimenez, and 2 Drew Curlett.

(Nunes Decl. ¶ 2, Exh. A ¶ 1.2.) 3 o The "PAGA Period" is defined as April 25, 2022, to November 20, 2024. (Nunes Decl. 4 ¶ 2, Exh. A ¶ 1.16.) 5 • Defendants will pay a "Gross Settlement Amount" of $88,500 on a non-reversionary basis. 6 This will include: 7 o Settlement payments of $9,500 to each of the three (3) named Plaintiffs; 8 o Incentive awards of $10,000 for each of the three (3) named Plaintiffs; 9 o PAGA Settlement of $10,000, including $7,500 to the California Labor and Workforce 10 Development Agency ("LWDA") and $2,500 to the PAGA Settlement Group; 11 o Attorney's fees of $20,000 to Plaintiffs' counsel.

12 II. DISCUSSION 13 "An employee bringing a PAGA action does so as the proxy or agent of the state's labor 14 law enforcement agencies,... who are the real parties in interest." Sakkab v.

Luxottica Retail N. Am. Inc., 803 F.3d 425, 435 (9th Cir. 2015) (internal citations omitted).

Because the settlement of PAGA claims compromises a claim that could otherwise be brought by the state, the PAGA requires that “court[s] shall review and approve any settlement of any civil action filed pursuant to [PAGA].” Cal. Lab. Code § 2699(l)(2); see also Haralson v. U.S. Aviation Servs. Corp., 383 F. Supp. 3d 959, 971 (N.D. Cal. 2019). But “ ‘neither the California legislature, nor the California Supreme Court, nor the California Courts of Appeal, nor the [LWDA] has provided any definitive answer’ as to what the appropriate standard is for approval of a PAGA settlement.” Jordan v. NCI Grp., Inc., No. EDCV161701JVSSPX, 2018 WL 1409590, at *2 (C.D.

Cal. Jan. 5, 2018) (quoting Flores v. Starwood Hotels & Resorts Worldwide, Inc., 253 F. Supp. 3d 1074, 1075 (C.D. Cal. 2017)). In assessing PAGA settlements, a number of district courts have applied a Rule 23-like standard, asking whether the settlement of the PAGA claims is “fundamentally fair, adequate, and reasonable in light of PAGA’s policies and purposes.” Haralson, 383 F. Supp. 3d at 972 (quoting Jordan, 2018 WL 1409590, at *2 (collecting cases)); see also Ramirez v. Benito Valley Farms, LLC, No. 16-CV-04708-LHK, 2017 WL 3670794, at *3 (N.D.

Cal. Aug. 25, 2017); O’Connor v. Uber Techs., Inc., 201 F. Supp. 3d 1110, 1134 (N.D. Cal. 2016). Here, several elements of the parties’ settlement require further explanation before the Court will approve a PAGA settlement. First, Labor Code section 2699(l)(2) provides that “[t]he proposed settlement shall be submitted to the [LWDA] at the same time that it is submitted to the court.” Counsel’s declaration in support of the motion does not specify whether the proposed settlement was submitted to the LWDA.

See Nunes Decl. (ECF 90-1). Any renewed motion for approval shall include a certification that the settlement was submitted to LWDA, and it must recount whether the LWDA responded to the submission. Second, the Settlement allocates $10,000 to the PAGA claims.

The parties’ motion for approval does not include any estimate regarding the total value of Plaintiffs’ claims, leaving the Court without a reference point against which to compare the PAGA settlement amount. Cf. Jennings v. Open Door Mktg., LLC, No. 15-CV-04080-KAW, 2018 WL 4773057, at *9 (N.D. Cal. Oct. 3, 2018) (“In this district, courts have raised concerns about settlements of less than 1% of the total value of a PAGA claim.”).

Any renewed motion for approval shall include an approximation of Plaintiffs’ potential recovery had they prevailed on all their claims. Third, the Settlement allocates a $10,000 incentive award to each of the three named Plaintiffs.

The parties’ motion for approval vaguely cites the matter of Bell v. Farmers Ins. Exchange, 115 Cal. App. 4th 715, 726 (2004), for the premise that courts regularly approve service payments to named plaintiffs for their efforts in bringing the litigation. See Mot. at 9.

The 22 Bell case, however, did not include PAGA claims, leaving the parties' application for incentive 23 awards in the PAGA context unsupported. Any renewed motion for approval shall include 24 citations to cases in which courts awarded settlement incentive awards to PAGA representatives 25 and shall make plain how Plaintiffs compare to those in the cited cases.

26 Fourth, including the proposed incentive awards, the Settlement allocates approximately 27 $20,000 to each of the named Plaintiffs yet leaves approximately $500 each to the two non- 1 which courts approved as fair and reasonable settlements with such substantial discrepancies 2 between plaintiffs and class members. 3 Fifth, Plaintiffs' counsel requests an award of attorney's fees of $20,000 from the Gross 4 Settlement Amount.

Neither the motion nor counsel's declaration makes any effort to support the 5 award of $20,000 as appropriate in this case. The papers present no effort to calculate a lodestar, 6 and they fail to identify any cases in which other courts approved such unsupported attorney's fee 7 awards. Any renewed motion shall provide sufficient information from which the Court can 8 calculate an appropriate lodestar.

9 Finally, the Settlement includes a "clear sailing" provision. See Settlement § 3.2.1 10 (providing for distribution of "A PAGA Counsel Fees Payment of $20,000.00. Defendants will 11 not oppose requests for Court approval of this payment."). Courts in the Ninth Circuit view clear 12 sailing fee provisions suspiciously as they suggest unfairness or collusion between counsel.

See In 13 re Bluetooth Headset Prods. Liab. Litig., 654 F.3d 935, 948 (9th Cir. 2011). Though the parties' 14 joint motion advances that the Settlement is the product of non-collusive negotiations, see Mot. at 15 6, the clear sailing provision severely undermines this contention. Any renewed motion shall 16 more fully explain how the parties maintained fair negotiations that were "fundamentally fair, 17 adequate, and reasonable in light of PAGA's policies and purposes." Haralson, 383 F. Supp. 3d at 18 972.

19 In sum, the parties' motion for PAGA approval fails to establish that the Settlement of the 20 PAGA claims is fundamentally fair, adequate, and reasonable. 21 III. CONCLUSION 22 For the foregoing reasons, the Court DENIES the parties' joint motion for approval of the 23 PAGA settlement. If they can remedy the deficiencies outlined above, the parties may file a 24 renewed motion within 30 days of this order.

Though not required, the Court encourages the 25 parties to prepare any renewed motion in accordance with the District's Procedural Guidance for 26 Class Action Settlements. Moreover, the renewed motion must provide more fulsome discussion 27 of the warning signs that courts must look for before concluding that a settlement is non-collusive 1 Should the parties elect to not file a renewed approval motion within 30 days, the parties || must file a joint status report within 45 days, with a proposal for how this litigation should proceed.

IT IS SO ORDERED. Dated: June 18, 2025 - ARACELI MARTINEZ-OLGUIN United States District Judge © = Z