

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Gilmore v. Safe Box Logistics, Inc.

Gilmore · No. 21-cv-06917-AMO · Decided May 7, 2025

SUMMARY

The United States District Court for the Northern District of California denied without prejudice a second amended motion seeking approval of a settlement under the California Private Attorneys General Act and an award of attorneys’ fees and costs. The court found that the submission did not adequately explain Safe Box Logistics’ maximum potential PAGA liability, the strengths and weaknesses of the alleged labor-law violations, the failure to timely seek class certification, or the response of the California Labor and Workforce Development Agency. The court permitted resubmission by June 9, 2025, subject to addressing the identified deficiencies and complying with the court’s settlement guidance.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Araceli Martinez-Olguin
JURISDICTION	United States District Court for the Northern District of California
DECIDED	May 7, 2025
DOCKET	21-cv-06917-AMO
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for approval of a second amended settlement under the California Private Attorneys General Act and for an award of attorneys' fees and reimbursement of costs. The district court denied both motions without prejudice and subject to resubmission.
STANDARD OF REVIEW	The court independently reviewed whether the proposed PAGA settlement was fundamentally fair, adequate, and reasonable and whether the requested attorneys' fees and costs were reasonable.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Janice Gilmore v. Safe Box Logistics, Inc., et al.

TOPICS

wage and hour

class actions

attorney fees

civil procedure

remedies

PRACTICE AREAS

employment law

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether the second amended motion provided sufficient information for the court to determine that the proposed PAGA settlement was fundamentally fair, adequate, and reasonable.
2. Whether the failure to provide Safe Box's maximum potential liability and a claim-by-claim assessment of the alleged Labor Code violations prevented approval of the PAGA settlement.
3. Whether the failure to timely seek class certification was relevant to the adequacy of the PAGA settlement and the requested attorneys' fees.
4. Whether the settlement-approval motion was required to disclose and lodge any response from the California Labor and Workforce Development Agency.
5. Whether the requested attorneys' fees and reimbursement of costs could be approved despite the deficiencies in the settlement submission.

HOLDINGS

1. A proposed PAGA settlement cannot be approved when the submission lacks information sufficient for the court to evaluate whether the settlement is fundamentally fair, adequate, and reasonable.
2. A renewed motion must provide Safe Box's maximum liability for each alleged California Labor Code violation and assess the strengths and weaknesses of each claim.
3. A plaintiff's failure to timely seek class certification is relevant to the court's evaluation of the adequacy of a PAGA settlement and must be explained in a renewed settlement motion.
4. A renewed motion for PAGA settlement approval must state whether the California Labor and Workforce Development Agency responded to the proposed settlement and must promptly lodge any response with the court.
5. The court must independently determine whether a requested award of attorneys' fees and costs is reasonable, even when the defendant does not oppose the request.

KEY QUOTATIONS

“the Court still finds the instant motion insufficient to determine whether the proposed PAGA settlement is “fundamentally fair, adequate and reasonable.”” (at 2)

“In any renewed motion, Gilmore should provide Safe Box’s maximum liability for each of the California Labor Code violations alleged in the operative complaint, and she should provide an assessment of each of her claim’s strengths and weaknesses, so that the Court can adequately review the fairness, adequacy, and reasonableness of the proposed PAGA settlement.” (at 3)

“That Safe Box does not oppose Gilmore’s motion for attorneys’ fees and costs, ECF 161, does not alter the Court’s independent obligation to determine whether the award sought is reasonable.” (at 4)

FACTUAL BACKGROUND

Gilmore alleged California Labor Code violations in a wage-and-hour action and sought approval of a settlement limited to PAGA claims. The proposed settlement was based on Safe Box Logistics' estimated realistic exposure, but the motion did not identify Safe Box's maximum potential PAGA liability or assess the strengths and weaknesses of each alleged labor violation. Gilmore also had not timely moved for class certification by the court-ordered June 22, 2023 deadline, and the renewed materials did not adequately explain that failure or disclose whether the Labor and Workforce Development Agency had responded to the proposed settlement.

PROCEDURAL HISTORY

The action is a proposed wage-and-hour class and representative action. The court previously denied without prejudice a motion to approve the PAGA settlement because of deficiencies including missing comparator cases and attachments, inadequate proof of service to the California Labor and Workforce Development Agency, settlement provisions requiring clarification, and noncompliance with the court's procedural guidance. After reviewing the renewed submissions, the court again found them insufficient and denied the settlement-approval and fee motions, allowing a renewed motion by June 9, 2025.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. The court denied the motions subject to resubmission. A renewed PAGA settlement motion was required by June 9, 2025, and any renewed motion had to address maximum liability for each alleged violation, claim strengths and weaknesses, the failure to timely seek class certification, the LWDA's response, the fee request, and the district's procedural guidance. If no renewed motion was filed, the parties were required to submit a joint status report by June 24, 2025.

CASES CITED

- Hanlon v. Chrysler Corp., 150 F.3d 1011, 1026 (9th Cir. 1998)
- Wal-Mart, 564 U.S. 338 (2011)
- Rodriguez v. Belfor USA Grp., Inc., No. 22-CV-02071-VKD, 2024 WL 3012798, at *6 (N.D. Cal. June 13, 2024)
- Haralson v. U.S. Aviation Servs. Corp., 383 F. Supp. 3d 959, 972 (N.D. Cal. 2019)
- Grady v. RCM Techs., Inc., 671 F. Supp. 3d 1065, 1076 (C.D. Cal. 2023)
- Granados v. Hyatt Corp., No. 23-CV-01001-H-VET, 2024 WL 3941828, at *6 (S.D. Cal. Aug. 26, 2024)
- Kryzhanovskiy v. Amazon.com Servs., Inc., No. 2:21-CV-01292-BAM, 2024 WL 4189936, at *14 (E.D. Cal. Sept. 13, 2024)

- Ramirez v. Merrill Gardens, LLC, No. 1:22-CV-00542-SAB, 2024 WL 115216, at *16 (E.D. Cal. Jan. 10, 2024)
- Jordan v. NCI Grp., Inc., No. EDCV161701JVSSPX, 2018 WL 1409590, at *3 (C.D. Cal. Jan. 5, 2018)
- Rocha v. Yoshinoya W., Inc., No. CV 06-00487 MMM AJWX, 2007 WL 8398819, at *3 (C.D. Cal. Jan. 8, 2007)
- Serrano v. Priest, 20 Cal. 3d 25, 49 (1977)
- Vizcaino v. Microsoft Corp., 290 F.3d 1043, 1048 (9th Cir. 2002)
- Jennings v. Open Door Mktg., LLC, No. 15-CV-04080-KAW, 2018 WL 4773057, at *9 (N.D. Cal. Oct. 3, 2018)
- In re Bluetooth Headset Prods. Liab. Litig., 654 F.3d 935, 941 (9th Cir. 2011)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
 JANICE GILMORE, Case No. 21-cv-06917-AMO 8 Plaintiff, ORDER DENYING SECOND
 AMENDED MOTION FOR APPROVAL 9 v. OF PAGA SETTLEMENT AND MOTION FOR
 AWARD OF 10 SAFE BOX LOGISTICS, INC., et al., ATTORNEYS' FEES AND
 REIMBURSEMENT OF COSTS, 11 Defendants. SUBJECT TO RESUBMISSION Re: Dkt. Nos.
 157, 158 12 13 14 This is a proposed wage and hour class and representative action in which
 Plaintiff Janice 15 Gilmore again seeks approval of a settlement covering only claims under the
 California Private 16 Attorneys General Act ("PAGA").

Second Amended Motion for Approval of PAGA Settlement 17 ("Mot.") (ECF 158) at 7. Further,
 Gilmore seeks an award of attorneys' fees and reimbursement 18 of costs. ECF 157. The motion
 for settlement approval is fully briefed and suitable for decision 19 without oral argument.

Accordingly, the hearing set for May 15, 2025, is VACATED. See Civil 20 L.R. 7-1(b), Fed. R.
 Civ. Pro. 78(b). The Court assumes familiarity with the facts and procedure 21 of the case. Having
 read Gilmore's papers and carefully considered the arguments and the 22 relevant legal authority,
 the Court hereby DENIES the motions as they are insufficient for the 23 following reasons.

24 I. DISCUSSION 25 The Court previously denied without prejudice Gilmore's motion for
 approval of the 26 PAGA settlement based on various deficiencies, including the absence of
 comparator cases, 27 missing attachments, needed proof of service to the California Labor and
 Workforce Development 1 certain settlement provisions, and lack of clear compliance with the
 District's Procedural 2 Guidance for Class Action Settlements.

See generally Order (ECF 149). The Court acknowledges 3 that Gilmore's renewed motion has
 attempted to correct or explain most of the deficiencies 4 identified in the Court's prior order. See
 generally Mot. (addressing most of the previously- 5 identified deficiencies); Amended
 Supplemental Declaration of Shaun Setareh (ECF 158-1) at 22- 6 44 (attaching a proposed order,
 notice of settlement, and receipts of filings with LWDA).

7 Notwithstanding Gilmore's efforts to address the Court's concerns, upon careful review of 8 Gilmore's submissions, the Court still finds the instant motion insufficient to determine whether 9 the proposed PAGA settlement is "fundamentally fair, adequate and reasonable." See *Hanlon v. 10 Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (outlining the factors for determining 11 whether a Rule 23 class action settlement proposal is "fundamentally fair, adequate, and 12 reasonable"), overruled on other grounds by *Wal-Mart*, 564 U.S. 338 (2011); see also *Rodriguez 13 v. Belfor USA Grp., Inc.*, No. 22-CV-02071-VKD, 2024 WL 3012798, at *6 (N.D.

Cal. June 13, 14 2024) (explaining that in evaluating a PAGA claim, courts draw upon the *Hanlon* factors to 15 evaluate whether the settlement is "fundamentally fair, adequate, and reasonable"); *Haralson v. 16 U.S. Aviation Servs. Corp.*, 383 F. Supp. 3d 959, 972 (N.D. Cal. 2019) (citations omitted) (noting 17 that a number of district courts have applied "a Rule 23-like standard" to determine whether a 18 PAGA settlement is "fundamentally fair, adequate, and reasonable in light of PAGA's policies and 19 purposes.").

Below, the Court highlights several of the most obvious deficiencies that remain in 20 Gilmore's submission. 21 A. Gilmore's Assessment of Defendant Potential Damages 22 The motion does not identify Defendant Safe Box Logistics, Inc.'s maximum possible 23 PAGA liability or assess the strengths and weaknesses of each labor code violation alleged in the 24 operative complaint, making it difficult for the Court to determine whether the proposed 25 settlement amount is fair, adequate, and reasonable.

See *Grady v. RCM Techs., Inc.*, 671 F. Supp. 26 3d 1065, 1076 (C.D. Cal. 2023) ("[T]he parties have not presented any estimate of [Defendant's] 27 maximum potential liability.... Not only is the Court completely in the dark as to how the value 1 the putative class's claims are being discounted – but it also has no information at all as to how an 2 assessment of the strengths and weaknesses of the case warrants whatever discount has been 3 applied.").

Rather, the motion offers Gilmore's assessment of Safe Box's "estimated realistic 4 exposure value." See Mot. at 15, 21, 29 (asserting that the PAGA settlement represents 27.7% of 5 Safe Box's "realistic" exposure value). Gilmore defends this estimate as reflecting the following 6 risks: 7 • The risk that the Court will exercise its discretion to drastically reduce PAGA liability 8 (Mot. at 13); 9 • The risk that an inquiry into why some employees missed meals and breaks may 10 necessarily require an individualized inquiry, preventing the issue from being resolved on 11 behalf of all aggrieved employees (*id.* at 13); 12 • The risk that the Court may determine that Gilmore cannot recover any purported meal or 13 rest break violations due to federal law preemption (*id.* at 14); 14 • The risk that the Court will decline to impose subsequent penalties (*id.* at 14); 15 • The risk that even if Gilmore receives a favorable judgment at trial, Safe Box will be 16 unable to pay (*id.* at 14); 17 • The general risks and costs of protracted litigation (*id.* at 14); and

18 • The risk that a fact finder will agree with Safe Box’s arguments and defenses to find that 19 the pay period violation rate was significantly lower than contended (*id.* at 15).

20 While Courts occasionally permit parties to use an estimate of “realistic” liability as the 21 point of comparison for settlement amounts, this is most appropriate where the parties have 22 provided an “extensive analysis” of the underlying claims, which Gilmore has not done. See, e.g., 23 *Granados v. Hyatt Corp.*, No. 23-CV-01001-H-VET, 2024 WL 3941828, at *6 (S.D.

Cal. Aug. 26, 24 2024) (accepting the calculation of defendant’s “realistic liability” where “class counsel engaged 25 in an extensive analysis of its claims and reasonably estimated [] Defendant’s realistic exposure”); 26 *Kryzhanovskiy v. Amazon.com Servs., Inc.*, No. 2:21-CV-01292-BAM, 2024 WL 4189936, at *14 27 (E.D. Cal. Sept. 13, 2024) (accepting plaintiffs’ assertion of defendant’s maximum potential 1 calculate the estimated damages).

2 Here, Gilmore does not purport to have utilized an expert or damages model to help 3 calculate Safe Box’s maximum potential damage, unlike in *Kryzhanovskiy*. Nor has Gilmore 4 engaged in, as in *Granados*, “an extensive analysis” of Gilmore’s claims to warrant acceptance of 5 the calculation of Safe Box’s “realistic” exposure value. Indeed, while some of the risks identified 6 by Gilmore’s motion may be relevant to determining Safe Box’s realistic PAGA liability, the 7 motion lacks an estimate of Safe Box’s maximum liability or a thorough assessment of the 8 strengths and weaknesses of each of Gilmore’s labor violation claims to allow the Court to 9 determine whether those claims are fairly discounted.

See *Grady*, 671 F. Supp. 3d at 1076; cf. 10 *Ramirez v. Merrill Gardens, LLC*, No. 1:22-CV-00542-SAB, 2024 WL 115216, at *16 (E.D. Cal. 11 Jan. 10, 2024) (approving a PAGA settlement worth 7.9% of the maximum calculated reasonable 12 exposure where “Plaintiff submit[ted] the risk-adjusted value of each claim, on a claim-by-claim 13 basis”); *Jordan v. NCI Grp., Inc.*, No. EDCV161701JVSSPX, 2018 WL 1409590, at *3 (C.D.

Cal. 14 Jan. 5, 2018) (approving PAGA settlement for less than the maximum value where Plaintiff’s 15 attorney “applied various risk discounts to account for the perceived strengths and weaknesses of 16 each claim as well as [defendant’s] anticipated defenses.”) (internal citation omitted). 17 In any renewed motion, Gilmore should provide Safe Box’s maximum liability for each of 18 the California Labor Code violations alleged in the operative complaint, and she should provide an 19 assessment of each of her claim’s strengths and weaknesses, so that the Court can adequately 20 review the fairness, adequacy, and reasonableness of the proposed PAGA settlement.

21 B. Gilmore’s Failure to Timely File for Class Certification 22 The Court also remains concerned by Gilmore’s failure to timely file for class certification 23 by the June 22, 2023 deadline set by the Court which, as Plaintiff’s Counsel has repeatedly 24 acknowledged,

“effectively wip[ed] out all of her potential class-wide claims.” Mot. at 24; see 25 also Plaintiff’s First Motion for Approval of PAGA Settlement (ECF 145) at 20; Declaration of 26 Shaun Setareh (ECF 145-1) ¶ 24 (“Defendants contended that Plaintiff could not recover for her 27 class allegations because she did not move for class certification by June 22, 2023, the deadline set 1 In any renewed motion, Gilmore shall explain her failure to timely file for class 2 certification, as this information is relevant to the Court’s assessment of the adequacy of the 3 PAGA settlement agreement.

See *Rocha v. Yoshinoya W., Inc.*, No. CV 06-00487 MMM AJWX, 4 2007 WL 8398819, at *3 (C.D. Cal. Jan. 8, 2007) (internal citation omitted) (“Plaintiffs’ failure to 5 seek [Rule 23] class certification in a timely fashion is a strong ‘indic[ation] that plaintiffs are not 6 adequately and fairly representing the interests of the absent class.’ ”); see also *Haralson*, 383 F. 7 Supp. 3d at 972 (citations omitted) (noting that various courts have applied “a Rule 23-like 8 standard” to assess the sufficiency of a PAGA settlement).

9 Relatedly, Plaintiff’s Counsel shall address this point in any renewed motion for attorneys’ 10 fees because, as recognized by Plaintiff’s Counsel, “[t]he benefit achieved on behalf of class 11 members defines a primary yardstick against which any fee motion is measured.” Mot. Att’ys’ 12 Fees (ECF 157) at 13 (citing *Serrano v. Priest*, 20 Cal. 3d 25, 49 (1977); *Vizcaino v. Microsoft* 13 Corp., 290 F.3d 1043, 1048 (9th Cir.

2002)). Plaintiff’s Counsel must address why they should 14 receive the fee award they seek when they did not timely file for class certification.¹ 15 C. LWDA Response to Proposed Settlement Agreement 16 In any renewed motion for settlement approval, Gilmore shall notify the Court whether the 17 LWDA has responded to its proposed settlement, including by promptly lodging the LWDA’s 18 response with the Court.

See *Jennings v. Open Door Mktg., LLC*, No. 15-CV-04080-KAW, 2018 19 WL 4773057, at *9 (N.D. Cal. Oct. 3, 2018) (relying on Plaintiffs’ supplemental brief to 20 determine that the LWDA did not object to the proposed settlement). 21 II. CONCLUSION 22 For the foregoing reasons, the Court DENIES Gilmore’s second amended motion for 23 approval of the PAGA settlement and motion for attorneys’ fees and reimbursement of costs.

Any 24 renewed motion for PAGA settlement approval must be filed by no later than June 9, 2025. In 25 26 1 That Safe Box does not oppose Gilmore’s motion for attorneys’ fees and costs, ECF 161, does not alter the Court’s independent obligation to determine whether the award sought is reasonable. 27 See *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 941 (9th Cir.

2011) (“[C]ourts have 1 addition to addressing the issues set forth above, the renewed motion should comply with all 2 || aspects of the District’s Procedural Guidance for Class Action Settlements. If Gilmore requires 3 additional time, she shall seek it no later than May 16, 2025. 4

Should Gilmore elect to not file a renewed motion for PAGA settlement approval by June 5 9, 2025, the parties must file a joint status report no later than June 24, 2025, with a proposal for 6 || how this litigation should proceed.

7 IT IS SO ORDERED. 8 Dated: May 7, 2025 ob Meh 10 ARACELI MARTINEZ-OLGUIN I
United States District Judge 12 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28