

# **SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA**

Hayward Hall of Justice, Department 517

JUDICIAL OFFICER: HONORABLE KEITH FONG

Courtroom Clerk: Katie Ortega

CSR: None

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**RG18926616**

April 8, 2025  
2:30 PM

**Lykens VS Aya Healthcare Services, Inc.**

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## **MINUTES**

**NATURE OF PROCEEDINGS: Hearing on Motion to Confirm Settlement filed by Tyson Lykens (Plaintiff) filed by Tyson Lykens (Plaintiff) on 03/12/2025**

Prior to the hearing, the Court issued a tentative ruling, which was uncontested and is affirmed as set forth below.

The Motion to Confirm Settlement filed by Tyson Lykens on 03/12/2025 is Granted.

Plaintiff Tyson Lykens' unopposed Motion to Confirm PAGA Settlement is GRANTED.

## **BACKGROUND**

Plaintiff Tyson Lykens ("Lykens" or "Plaintiff") brings this action against Defendant Aya Healthcare Services, Inc. ("Aya" or "Defendant") for alleged Labor Code violations. Plaintiffs seek civil penalties and attorneys' fees and costs. Plaintiff alleges, inter alia, a claim under the Private Attorneys' General Act ("PAGA"), Labor Code § 2698 et seq. on behalf of nurses, therapists, and other employees ("Travel Nurses") placed by Aya during the applicable statutory period, and the State of California.

Plaintiff moves for approval of the PAGA Settlement Agreement ("PSA"), attached as Exhibit 1 to the Declaration of Jeff Geraci ("Geraci Dec.") The motion is unopposed.

## **LEGAL STANDARD**

Plaintiff asserts the PAGA claim as proxy or agent of the State of California's Labor Workforce Development Agency. "An employee plaintiff suing ... under the [PAGA] does so as the proxy or agent of the state's labor law enforcement agencies." (*ZB, N.A. v. Superior Court of San Diego County* (2019) 8 Cal.5th 175, 185; *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 381.)

A person asserting a claim on behalf of the LWDA under PAGA must obtain court approval for any settlement. Labor Code 2699(1)(2) states: "The superior court shall review and approve any settlement of any civil action filed pursuant to this part. The proposed settlement shall be

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submitted to the agency at the same time that it is submitted to the court.”

Regarding the standard for review, *Williams v. Superior Court* (2017) 3 Cal.5th 531, 549, states “PAGA settlements are subject to trial court review and approval, ensuring that any negotiated resolution is fair to those affected.” In *O’Connor v. Uber Technologies, Inc.* (N.D. Cal., 2016) 201 F.Supp.3d 1110, 1133, the LWDA filed a brief that stated, “It is thus important that when a PAGA claim is settled, the relief provided for under the PAGA be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public.”

Regarding the evidence required for the court to evaluate a settlement under Labor Code 2699(1)(2), the court is not required to undertake a comprehensive “what would have happened if the litigation had proceeded” analysis. The standard of review is similar to the standard for review of class action settlements under *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, and the standard for approval of good faith settlements under CCP 877.6 and *Tech-Bilt, Inc. v. Woodward-Clyde & Associates* (1985) 38 Cal.3d 488.

The court can consider the value of any effective injunctive relief that a PAGA plaintiff obtains through settlement even though Labor Code 2699(a) permits a PAGA plaintiff to recover only penalties on behalf of the LWDA. The primary purpose of LWDA law enforcement proceedings is to ensure compliance with the law and not to impose and collect penalties. In enacting PAGA, “The Legislature declared that adequate financing of labor law enforcement was necessary to achieve maximum compliance with state labor laws.” (*Arias v. Superior Court* (2009) 46 Cal.4th 969, 980.)

The analysis of whether a proposed settlement will be “fair to those affected” concerns only fairness to the LWDA. If a PAGA plaintiff settles a claim on behalf of the LWDA for less than the maximum settlement value, the only injured person is the LDWA. The statute requires notice of a settlement to the LWDA so it can protect its interests and in addition, it requires court approval. (Labor Code § 2699(1).) The aggrieved employees retain whatever private claims they had before the settlement.

## **SETTLEMENT TERMS**

The “Aggrieved Employees” in this action are defined as all persons employed by Aya in California as non-exempt travel nurse employees, including nurses, therapists, and other allied healthcare employees who worked for Aya from August 26, 2017 through December 31, 2024 (“the PAGA Period”). (PSA ¶¶ 1.4, 1.20.) There are approximately 30,000 Aggrieved Employees. (PSA ¶ 4.1.)

The gross settlement amount is \$16,000,000 (PSA ¶ 3.1.)

There is a discrepancy in the moving papers and the PAGA Settlement Agreement as to the requested attorneys’ fees and costs. The PSA states that counsel requests 1/3 of the gross settlement amount, or \$5,333,333. (PSA ¶3.3.) The PSA requests costs of \$43,000. (*Id.*) However, the moving papers state the counsel requests 30%, or \$4,800,000 in attorneys’ fees and \$42,000 in litigation costs. (Memorandum of Points and Authorities p.16; Geraci Dec. ¶¶ 23, 40.)

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Plaintiff further requests a service award of \$20,000. (PSA ¶ 3.4.) The PSA provides for expenses to the Settlement Administrator Atticus Administration, LLC, not to exceed \$49,900. (PSA ¶¶ 1.1.2, 3.5.)

The PSA provides that PAGA penalties of \$10,553,767 are to be allocated as follows: 75% (\$7,915,325.25) to the LWDA and 25% \$2,638,441.75) to individual PAGA payments to the Aggrieved Employees. (PSA ¶ 3.6.) Each individual PAGA payment will be calculated by the Settlement Administrator by (1) dividing 25% of the PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period; and (2) multiplying the result by each Aggrieved Employee's total PAGA Period Pay Periods. (PSA § 3.7.)

## SCOPE OF THE RELEASE

The PSA releases claim all claims, transactions, or occurrences that occurred during the PAGA Period, including claims for penalties. (PSA ¶¶ 5.1-5.3) The PSA, therefore, releases claims for both civil penalties under Labor Code §§ 2698 et seq. and 2699, and for reasonable attorneys' fees and costs under Labor Code § 2699(g).

## DISPOSITION OF THE RESIDUAL

The disposition of any uncashed checks shall be paid to the National Employment Law Project. (PSA ¶ 4.4.2.1.)

## ATTORNEYS' FEES

As noted above, there is a discrepancy in the requested attorneys' fees and costs in the PAGA Settlement Agreement and in the moving papers. The Ninth Circuit's benchmark is 25%. (*Lafitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 495.) When using the percentage of the recovery approach, this Court's benchmark for fees is 30% of the total fund. (see *Laffitte v. Robert Half Internat. Inc.*, *supra*, 1 Cal.5th at 495; see also *Schulz v. Jeppesen Sanderson, Inc.* (2018) 27 Cal.App.5th 1167, 1175 [in fee award involving minor, 10% deemed too low and 31% in contract "not out of line"]; *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 fn 13 (citing awards of 25% and one-third); *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 fn 11 (30.3% or 27.9 % "not out of line and citing study that "... fee awards in class actions average around one-third of the recovery.")).

Plaintiff's counsel's lodestar calculation based on rates ranging from \$700-995 per hour for attorneys and \$175-200 for paralegals, for 1,448.2 hours, for a lodestar of \$1,253,971. (Geraci Dec. ¶ 40.) As to Plaintiff is represented by two firms in this action, fees are allocated 60% to Cohelan Khoury & Singer, and 40% to Lebe Law, APLC, with Plaintiff's consent. (*Id.* ¶ 25.) Settlement was reached following both informal and formal discovery and years of litigation. (*Id.* ¶ 39.) Counsel further provides a summary of its time and costs, lodestar task sheet and report, and itemization of costs. (*Id.* ¶ 40, Exhs. 3-5; Declaration of Jonathan Lebe, ¶ 12, Exh. A.) Counsel's rates and hours appear reasonable based on the record before the Court.

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On this basis, as well as pursuant to the facts presented in Plaintiff's unopposed motion, the Court APPROVES attorneys' fees of \$4,800,000, or 30%. This amount reflects adequate compensation for the tasks undertaken and appropriate in circumstances resulting in the efficient resolution of an action where less litigation is required. (*See Lealao v. Beneficial Cal. Inc.* (2000) 82 Cal.App.4th 19, 52.)

## **COSTS**

The Court APPROVES costs not to exceed \$42,000.

## **SETTLEMENT ADMINISTRATOR COSTS**

The Court APPROVES settlement administrator costs not to exceed \$49,900.

## **SERVICE AWARD**

In support of his requested service award, Plaintiff Tyson Lykens provides his sworn declaration stating that he estimates that he spent 150 hours over 6.5 years on this litigation. (Declaration of Tyson Lykens ¶ 2.) Lykens communicated with counsel via phone and email and provided information regarding his work as a travel nurse, contributing to pleadings, mediation, settlement negotiations, and terms of settlement. (*Id.* ¶¶ 5-14.)

Based upon the foregoing, the Court APPROVES the requested service award of \$20,000 to Plaintiff Tyson Lykens.

## **CONCLUSION**

Plaintiff shall submit a revised proposed order for the Court's signature pursuant to the foregoing.

A compliance hearing is SET for February 3, 2026 at 2:30 PM in Department 517, at which the time the Court will consider evidence that the distribution process is complete and that a final accounting may be approved.

Compliance Hearing is scheduled for 02/03/2026 at 02:30 PM in Department 517 at Hayward Hall of Justice.

By:



K. Ortega, Deputy Clerk

Minutes of: 04/08/2025

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Entered on: 04/09/2025