

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

**22CV014356: ELLIS vs PAYLOCITY CORPORATION, AN ILLINOIS CORPORATION
11/14/2024 Hearing on Motion for Preliminary Approval of Settlement in Department 23**

Tentative Ruling - 11/13/2024 Michael Markman

The Motion for Preliminary Approval of Settlement filed by Sandy Ellis on 09/09/2024 is Granted.

BACKGROUND FACTS

This is a wage-and-hour class action and PAGA representative action. Plaintiff Sandy Ellis and Defendant Paylocity Corporation have agreed to settle the claims for \$750,000.00, which includes up to \$250,000.00 in attorney’s fees; up to \$25,000.00 in litigation costs; an enhancement payment of \$7,500.00 for the named plaintiff; settlement administration costs of up to \$6,900.00; and \$50,000.00 in PAGA civil penalties (75% of penalties go to California Labor and Workforce Development Agency (LWDA) and 25% to be distributed to aggrieved employees). The remaining amount is to be distributed among participating class members on a pro rata basis.

LEGAL STANDARD

To prevent “fraud, collusion or unfairness to the class, the settlement or dismissal of a class action requires court approval.” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800.) The Court “must determine the settlement is fair, adequate, and reasonable.” (*Id.* at p. 1801.) “The well-recognized factors that the trial court should consider in evaluating the reasonableness of a class action settlement agreement include ‘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 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.’” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128 [quoting *Dunk, supra*, at p. 1801].)

Similarly, a “trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA’s purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77 [noting overlap of factors in class action analysis, “including the strength of the plaintiff’s case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount”].)

PRELIMINARY APPROVAL

Plaintiff’s counsel investigated and obtained information from Defendant, analyzing Defendant’s relevant policies and handbooks, as well as personnel files and payroll data for putative class members. The parties then participated in an arm’s length mediation with a

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professional mediator and settled. (*Id.*, ¶ 19.) Plaintiff includes an adequate *Kullar* analysis, providing a reasonable estimate of the number of class members, the total estimated possible recovery, and an explanation why the settlement was reasonable in light thereof. (See *id.*, ¶¶ 41–77.) The court gives “considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm’s length transaction entered without self-dealing or other potential misconduct.” (*Kullar*, *supra*, 168 Cal.App.4th at p. 129.) The terms of the settlement and notice procedures appear generally fair, reasonable and adequate. The parties modified the scope of the PAGA release and the proposed notice at the court’s request. The parties also identified Legal Aid at Work as the recipient for unclaimed funds in accordance with Code of Civil Procedure section 384.

SERVICE AWARD, FEES, & COSTS

The court will not rule on the incentive award for the representative plaintiff, attorney’s fees, or costs until final approval but provides the following preliminary guidance:

Any incentive, enhancement, or service award must be supported with “quantification of time and effort expended on the litigation, and in the form of reasoned explanation of financial or other risks incurred by the named plaintiffs.” (*Clark v. Am. Residential Servs. LLC* (2009) 175 Cal.App.4th 785, 807.) This court is unlikely to approve an award of more than \$7,500.00 absent special circumstances.

This court’s benchmark for attorney’s fees is 30%. (See *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 495; *Schulz v. Jeppesen Sanderson, Inc.* (2018) 27 Cal.App.5th 1167, 1175; *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557, fn. 13; *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, fn. 11.) A “court approving a settlement that includes a negotiated fee [] is required to decide if the fee negotiated by the parties closely approximates the value of the attorneys’ work.” (*Robbins v. Alibrandi*, 127 Cal.App.4th 438, 452.) Counsel must address the value of the attorney’s work, as well as the justification for any deviation from this court’s benchmark. Ten percent of the attorney’s fee award must be held by the settlement administrator until completion of the distribution process and court approval of a final accounting.

The settlement agreement authorizes reimbursement of litigation costs. Counsel must provide evidentiary support for the actual costs incurred at the time of final approval.

The court’s preference is for Plaintiffs to move for final approval, including approval of attorney’s fees, costs, and Plaintiff’s enhancement award, in a single motion.

ORDER

Plaintiff’s motion for preliminary approval of class action settlement is GRANTED. A final approval hearing will be held on March 13, 2025 at 10:00 am in Department 23. The moving party may obtain a reservation number from the clerk.

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HOW DO I CONTEST A TENTATIVE RULING?

THROUGH eCOURT

Notify the Court and all the other parties no later than 4:00 PM one court day before the scheduled hearing, and briefly identify the issues you wish to argue through the following steps:

1. Log into eCourt Public Portal
2. Case Search
3. Enter the Case Number and select “Search”
4. Select the Case Name
5. Select the Tentative Rulings Tab
6. Select “Click to Contest this Ruling”
7. Enter your Name and Reason for Contesting
8. Select “Proceed”

BY EMAIL

Send an email to the DEPARTMENT CLERK (dept23@alameda.courts.ca.gov) and all the other parties no later than 4:00 PM one court day before the scheduled hearing. This will permit the department clerk to send invitations to counsel to appear remotely.

Notice via **BOTH** eCourt **AND** email is required. The tentative ruling will become the ruling of the court if no party contests the tentative ruling.