

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

ALEX JAVIER NAKAMOTO
Plaintiff/Petitioner(s)
VS.
SKYDIO, INC.
Defendant/Respondent
(s)

No. 24CV062913

Date: 04/24/2025

Time: 3:00 PM

Dept: 17

Judge: Sarah Sanford-Smith

ORDER re: Hearing on Motion -

Other Motion for PAGA

Approval; filed by ALEX

JAVIER NAKAMOTO

(Plaintiff) filed by ALEX

JAVIER NAKAMOTO

(Plaintiff) on 02/26/2025

The Motion for Final Approval of Settlement filed by ALEX JAVIER NAKAMOTO on 02/26/2025 is Granted.

The Motion of Plaintiff Alex Javier Nakamoto ("Plaintiff") for Approval of PAGA Settlement is GRANTED.

BACKGROUND

Plaintiff filed his Complaint on February 6, 2024 as a Private Attorneys General Act ("PAGA") enforcement action against Defendant Skydio Inc. ("Defendant") (Register of Actions ("ROA").) Plaintiff alleged that Defendant engaged in work practices such as failing to pay Plaintiff and aggrieved employees overtime, meal and rest periods, and other unfair business practices. On May 6, 2024, the Parties reached an agreeable settlement in a private mediation which resolved Plaintiff's PAGA claims. (Genish Decl. ¶ 10).

OVERVIEW

PAGA actions are in the nature of a qui tam proceeding in that plaintiffs seek civil penalties that would otherwise be recoverable by the LWDA. (Iskanian v. CLS Transportation Los Angeles, LLC (2014) 59 Cal.4th 348, 382.) Plaintiff cannot bring "individual" claims under PAGA; they may only bring the action on behalf of themselves and all other aggrieved employees to vindicate the LWDA's interest in enforcement of the Labor Code. (Labor Code § 2699(c) & (g)(1); Williams v. Superior Court (2015) 237 Cal.App.4th 642, 649.) Any monetary penalties assessed

ORDER re: Hearing on Motion - Other Motion for PAGA Approval; filed by
ALEX JAVIER NAKAMOTO (Plaintiff) filed by ALEX JAVIER
NAKAMOTO (Plaintiff) on 02/26/2025

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against the defendant are split between the LWDA and named plaintiffs, with 75% going to the LWDA. (Labor Code § 2699(i).) Even outside of the settlement context, the Court has the authority and discretion to diminish penalty awards that would be “unjust, arbitrary and oppressive, or confiscatory.” (Labor Code § 2699(e)(2).)

Representative litigants must submit any settlement of a PAGA representative action for Court approval. (Labor Code § 2699(l)(2).) The standard for approval of these settlements remains almost entirely unelaborated. Unlike government entities represented in False Claims Act qui tam actions, the LWDA does not have a statutory right to intervene or object to settlement. (Compare Gov. Code § 12652(c)(1), (e)(2)(b), (f)(2)(B), with Labor Code § 2699(l).) Because the LWDA is not present at the negotiating table, the Court’s review of a PAGA settlement must make sure that the interests of the LWDA in civil enforcement are defended and that the settlement is fair, adequate, and reasonable under all the circumstances. (Accord O’Connor v. Uber Technologies, Inc. (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1133; see also Gov. Code § 12652(e)(2)(B) [requiring False Claims Act qui tam settlements be “fair, adequate, and reasonable under all the circumstances”].)

The Court therefore takes guidance from the context of class action settlements, which must also be found to be “fair, adequate, and reasonable.” (See, e.g., Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 244.) In approving class action settlements, the Court considers (1) the relative strength of the plaintiffs’ case; (2) the risk, expense, complexity, and likely duration of further litigation of this dispute; (3) the risk of maintaining class status through trial; (4) the amount offered in settlement; (5) the extent of discovery completed and stage of the proceedings; (6) the experience and views of counsel that settlement is reasonable; and (7) the presence or lack of any objections to the proposed settlement. (See *id.* at 244-245; *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801.)

At least two of these factors are not analogous in the PAGA settlement context: risk of maintaining class action status and reaction of other aggrieved employees. (Accord *Ramirez v. Benito Valley Farms, LLC* (N.D. Cal., Aug. 25, 2017, No. 16-CV-04708-LHK) 2017 WL 3670794, at *3 [discussing factors elaborated in *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1026].) Class action status is irrelevant because PAGA actions are not certified.

The lack of objections because the interest of absent aggrieved employees in a PAGA action is different than the interests of absent class members. On the one hand, an absent aggrieved employee has no more interest in a PAGA litigation than he has in an LWDA enforcement action. On the other hand, absent aggrieved workers have a financial stake in the outcome of the litigation because they stand to benefit from 25% of the recovered penalties and the settlement would stand as *res judicata* against any later PAGA action. In class action practice, the financial and due process interests of absent class members are protected through a dual-track settlement approval procedure and the requirement that the parties provide notice to the class. (R. Ct. 3.769.) In PAGA cases, there is no express requirement of a similar procedure. Because the absent aggrieved employees are not real parties in interest, the Court does not find it necessary to create one.

The Court also notes that PAGA claims are often settled in the context of class action claims

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brought to enforce a right to civil recovery and restitution for the same violations of the Labor Code. In these circumstances, plaintiffs have a financial incentive to minimize the share of the settlement denoted as PAGA penalties so they do not have to share with the LWDA, which is not present at the negotiating table to protect its own interests.

Class action settlements can only be approved if a class can be certified. (See *Anchem Prods., Inc. v. Windsor* (1997) 521 U.S. 591, 625-627.) A court approving the settlement of a PAGA claim should also consider the preliminary consideration of whether the PAGA plaintiffs are “aggrieved employees” such that they qualify as proper PAGA representative plaintiffs. (Labor Code § 2699(c).)

DISCUSSION

Reasonableness

In view of the factors as enumerated above, the parties’ Settlement Agreement generally satisfies these requirements.

Proposed Settlement Agreement

Pursuant to the Settlement, Defendants have agreed to pay the Gross Settlement Amount (“GSA”) of \$200,000.00 to be distributed as follows:

PAGA Counsel Attorney’s Fees of \$70,000

PAGA Counsel Litigation Costs of \$15,667.66

Service Award for Plaintiff of \$5,000

PAGA Penalty Fund Payment of \$104,332.34 split as follows:

- \$78,249.26 to Labor Workforce Development Agency (“LWDA”)
- \$26,083.08 to PAGA-eligible aggrieved employees

Settlement Administrator Fees of up to \$5,000.00

The Aggrieved Employees

The Aggrieved Employees consists of all current and former non-exempt employees of Defendant employed at any time during the period from December 1, 2022, through June 30, 2024. (Genish Decl. ¶ 17, Ex. 2.) There are approximately 125 Aggrieved Employees. (MPA, p.4:9-11.)

Scope of Release

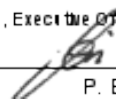
Under PAGA, a private plaintiff brings an action on behalf of the LWDA. The plaintiff does not represent the “aggrieved employees” and therefore cannot release claims on their behalf. The proposed settlement states releases claims for statutory penalties but does not release claims that aggrieved employees could bring in a non-PAGA case. (Settlement Agreement, § 6(a).)

Uncashed Settlement Checks

The proposed Settlement Agreement indicates all settlement checks that remain uncashed for more than 180 days after issuance will be canceled and funds associated with them distributed to

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<p align="center">SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</p>	<p align="center">Reserved for Clerk's File Stamp</p>
<p>COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612</p>	<p align="center">FILED Superior Court of California County of Alameda 04/25/2025</p>
<p>PLAINTIFF/PETITIONER: ALEX JAVIER NAKAMOTO</p>	<p>Chad Finke, Executive Officer / Clerk of the Court By:  Deputy</p>
<p>DEFENDANT/RESPONDENT: SKYDIO, INC.</p>	
<p align="center">CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6</p>	<p>CASE NUMBER: 24CV062913</p>

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order re: Hearing on Motion - Other Motion for PAGA Approval; filed by ALEX JAVIER NAKAMOTO (Plaintiff) filed by ALEX JAVIER NAKAMOTO (Plaintiff) on 02/26/2025 entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Jonathan M. Genish
BLACKSTONE LAW, APC
jgenishi@blackstonepc.com

Dated: 04/25/2025

Chad Finke, Executive Officer / Clerk of the Court

By:


P. Bir, Deputy Clerk