

Superior Court of California, Contra Costa County

Department 10
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S. Lind
Court Executive Officer

MINUTE ORDER

SOPHIA AGUIRRE VS. SHIFT4 PAYMENTS, LLC

C24-01636

HEARING DATE: 06/04/2026

PROCEEDINGS: *HEARING ON MOTION IN RE: PRELIMINARY APPROVAL

DEPARTMENT 10

CLERK: BARBARA CUEVAS

JUDICIAL OFFICER: CHARLES S TREAT

COURT REPORTER: NOT REPORTED

JOURNAL ENTRIES:

No appearances by either party.

There being no opposition to the tentative ruling, the tentative ruling becomes the order of the court and stands as follows:

Plaintiff Sophie Aguirre moves for preliminary approval of her class action and PAGA settlement with defendant Shift4 Payments, LLC. The motion is granted.

Background and Settlement Terms

Defendant Shift4 Payments is in the business of providing merchant services to sales businesses. Plaintiff worked there as a technical support representative, a non-exempt position.

The original complaint was filed on June 21 2024. It was amended on September 2, 2025 to add PAGA claims.

The settlement would create a gross settlement fund of \$142,500. The class representative payment to the plaintiff would be \$7,500. Attorney's fees would be \$47,500 (one-third of the settlement). Litigation costs would not exceed \$15,000. The settlement administrator's costs are estimated at \$5,000. PAGA penalties would be \$92,500, resulting in a payment of \$60,125 to the LWDA. The net amount paid directly to the class members would be about \$50,000 for the class, and \$32,375 on the PAGA claims. The fund is non-reversionary. There are an estimated 40 class members, and 26 aggrieved PAGA employees. The number of aggrieved employees for PAGA purposes is smaller, because the starting date of the relevant period is later. Based on the estimated class size, the average net payment for each class member is approximately \$1,250, and the average net PAGA payment will be \$1,245. The individual payments will vary considerably, however, because of the allocation formula prorating payments according to the number of weeks worked during the relevant time.

The entire settlement amount will be deposited with the settlement administrator within 30 days after the effective date of the settlement.

The proposed settlement would certify a class of all current and former non-exempt employed at

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Defendants' California facilities between June 21, 2020 and September 2, 2025. For PAGA purposes, the period covered by the settlement is April 17, 2023, and September 2, 2025.

The class members will not be required to file a claim. Class members may object or opt out of the settlement. (Aggrieved employees cannot opt out of the PAGA portion of the settlement.) Funds would be apportioned to class members based on the number of workweeks worked during the class period.

A list of class members will be provided to the settlement administrator within 14 days after preliminary approval. Various prescribed follow-up steps will be taken with respect to mail that is returned as undeliverable. Settlement checks not cashed within 180 days will be cancelled, and the funds will be directed to the Controller's Unclaimed Property Fund.

The settlement contains release language covering all claims and causes of action, alleged or which could have reasonably been alleged based on the allegations in the operative pleading, including a number of specified claims. Under recent appellate authority, the limitation to those claims with the "same factual predicate" as those alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 537 ("A court cannot release claims that are outside the scope of the allegations of the complaint.") "Put another way, a release of claims that goes beyond the scope of the allegations in the operative complaint' is impermissible." (Id., quoting *Marshall v. Northrop Grumman Corp.* (C.D. Cal.2020) 469 F.Supp.3d 942, 949.)

Formal discovery was undertaken, resulting in the production of substantial documents. The matter settled after arms-length negotiations, which included a session with an experienced mediator.

Counsel also has provided an analysis of the case, and how the settlement compares to the potential value of the case, after allowing for various risks and contingencies. For example, much of plaintiff's allegations centers on possible off-the-clock work, including missed or skipped meal breaks and rest breaks. Defendant, however, pointed out that its formal policies prohibit off-the-clock work, and asserted that it would have had no knowledge of employees beginning work before punching in or continuing after punching out. Further, it argued that it was required to make meal and rest breaks available, but not required to ensure that they be taken, so long as no employer policy prevented or discouraged taking such breaks. As to unreimbursed employee expenses (such as cell phone use, mileage, and masks), plaintiff would have been called on to show that such expenses were in fact incurred, were reasonably necessary to job performance, and were unreimbursed. Furthermore, the fact-intensive character of such claims would have presented a serious obstacle to class certification.

The potential liability needs to be adjusted for various evidence and risk-based contingencies, including problems of proof. PAGA penalties are difficult to evaluate for a number of reasons: they derive from other violations, they include "stacking" of violations, the law may only allow application of the "initial violation" penalty amount, and the total amount may be reduced in the discretion of the court. (See Labor Code 2699(e)(2) (PAGA penalties may be reduced where "based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust arbitrary and oppressive, or confiscatory.)) Moreover, recent decisions may make it difficult for PAGA plaintiffs to recover statutory penalties, as opposed to actual missed wages. (See, e.g., *Naranjo v.*

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Spectrum Security Services, Inc. (2023) 88 Cal.App.5th 937; but see Gola v. University of San Francisco (2023) 90 Cal.App.5th 548, 566-67.)

Counsel attest that notice of the proposed settlement was transmitted to the LWDA concurrently with the filing of the motion.

Legal Standards

The primary determination to be made is whether the proposed settlement is "fair, reasonable, and adequate," under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, including "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 the state of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction ... to the proposed settlement." (See also *Amaro*, 69 Cal.App.5th 521.)

Because this matter also proposes to settle PAGA claims, the Court also must consider the criteria that apply under that statute. Recently, the Court of Appeal's decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found that the "fair, reasonable, and adequate" standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The Court also held that the trial court must assess "the fairness of the settlement's allocation of civil penalties between the affected aggrieved employees". (*Id.*, at 64-65.)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, "The court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter." (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that *Neary* does not always apply, because "Where the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutary purpose." (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

Attorney Fees

Plaintiff seeks one-third of the total settlement amount as fees, relying on the "common fund" theory. Even a proper common fund-based fee award, however, should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. It stated: "If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment." (*Id.*, at 505.) Following typical practice, however,

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the fee award will not be considered at this time, but only as part of final approval.

Similarly, litigation costs and the requested representative payment of \$7,500 for the plaintiff will be reviewed at time of final approval. Criteria for evaluation of representative payment requests are discussed in *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-07.

Discussion and Conclusion

The Court finds that the settlement is sufficiently fair, reasonable, and adequate to justify preliminary approval.

Counsel will be directed to prepare an order reflecting this tentative ruling, the other findings in the previously submitted proposed order, and to obtain a hearing date for the motion for final approval from the Department clerk. Other dates in the scheduled notice process should track as appropriate to the hearing date. The ultimate judgment must provide for a compliance hearing after the settlement has been completely implemented. Plaintiffs' counsel are to submit a compliance statement one week before the compliance hearing date. Five percent of the attorney's fees are to be withheld by the claims administrator pending satisfactory compliance as found by the Court.

DATE: 6/4/2026

BY: /s/B. Cuevas

B. CUEVAS, DEPUTY CLERK