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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KARINA RUIZ,

 Plaintiff,

 v.

WAL-MART STORES, et al.,

 Defendants.

No. 1:17-cv-00812-DAD-JLT

ORDER APPROVING SETTLEMENT OF
PAGA CLAIMS

(Doc. No. 19)

On November 7, 2018, plaintiff Karina Ruiz and defendants Walmart Inc. (formerly known as Wal-Mart Stores, Inc.) and Wal-Mart Associates, Inc. filed a joint stipulation with the court requesting approval of the settlement of plaintiff’s claim brought under the Private Attorneys General Act, California Labor Code § 2698 *et seq.* (“PAGA”). (Doc. No. 19.) The parties’ joint stipulation also requests the dismissal of this action with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). (*Id.*)

A hearing on the parties’ request was held on December 18, 2018. Attorney Michael Morrison appeared telephonically on behalf of plaintiff, and attorneys Stefan Black and Shanda Lowe appeared telephonically on behalf of defendants. Having considered the parties’ request and heard oral argument, and for the reasons set forth below, the court will grant the request for approval of the settlement of plaintiff’s PAGA claim.

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1 **BACKGROUND**

2 On May 12, 2017, plaintiff commenced this action by filing a complaint in the Kern
3 County Superior Court. The complaint presented the following claims: (1) pregnancy
4 discrimination in violation of the Fair Employment and Housing Act (“FEHA”); (2) violation of
5 pregnancy disability leave under California Government Code § 12945, *et. seq.*; (3) disability
6 discrimination in violation of the FEHA; (4) retaliation in violation of the FEHA; (5) failure to
7 prevent and remedy discrimination and retaliation in violation of the FEHA; (6) failure to engage
8 in the interactive process in violation of the FEHA; (7) failure to provide reasonable
9 accommodation in violation of the FEHA; (8) violation of the Healthy Workplaces, Healthy
10 Families Act (“HWHFA”) of 2014; (9) waiting time penalties pursuant to California Labor Code
11 §§ 201, 202, 203; (10) interference in violation of the California Family Rights Act (“CFRA”);
12 (11) retaliation in violation of the CFRA; (12) wrongful termination in violation of public policy;
13 (13) violation of the PAGA; and (14) unfair business practices in violation of California Business
14 & Professions Code § 17200, *et. seq.* (See Doc. No. 1-3.) On June 16, 2017, defendants removed
15 the action to this federal court. (Doc. No. 1.)

16 Plaintiff’s PAGA claim is premised on the complaint’s allegations that plaintiff: (1) did
17 not receive all accrued and unused paid time off on her last day of employment in violation of
18 California Labor Code § 203; and (2) did not receive all paid sick leave to which she was entitled
19 under the HWHFA. (Doc. No. 19 at ¶ 15.) Discovery conducted in this action, however,
20 revealed that plaintiff was paid all accrued but unused paid time off on her last day of
21 employment, and that she received all paid sick leave to which she was entitled under the
22 HWHFA. (Doc. No. 19 at ¶ 17.) In addition, after completing discovery, plaintiff determined
23 there was no evidence of any other violations as to other aggrieved employees. (Doc. No. 19 at
24 ¶ 17.)

25 On October 18, 2018, after engaging in two full days of mediation, the parties executed a
26 settlement agreement in this action that resolved both plaintiff’s individual claims and her PAGA
27 representative claim. (Docs. Nos. 19-1 ¶ 12; 22 ¶ 12.) The settlement agreement allocates zero
28 dollars to plaintiff’s PAGA claim. (Doc. No. 19 at ¶ 14.) At the hearing, plaintiff’s counsel

1 represented that the parties are seeking to dismiss only the PAGA claim brought by plaintiff on
2 her own behalf and are not seeking the resolution of any other aggrieved employee's potential
3 claims. Thus, no PAGA penalties are to be paid as part of the settlement and no one's PAGA
4 claims are being released except for plaintiff's own.

5 **LEGAL STANDARD**

6 In 2003, the California Legislature enacted the Private Attorney General Act, California
7 Labor Code §§ 2698 et seq., after declaring (i) that adequate financing of labor law enforcement
8 was necessary to achieve maximum compliance; (ii) that staffing levels for state labor law
9 enforcement agencies have declined and were unable to keep up with a growing labor market;
10 (iii) that vigorous assessment and collection of civil penalties provides a meaningful deterrent to
11 unlawful conduct; and (iv) that it was therefore in the public interest to allow aggrieved
12 employees, acting as private attorneys general, to seek and recover civil penalties for Labor Code
13 violations. 2003 Cal. Stat. 6629. Under PAGA, an "aggrieved employee" may bring an action
14 for civil penalties for labor code violations on behalf of herself and other current or former
15 employees. Cal. Lab. Code § 2699(a).¹ A plaintiff suing under PAGA "does so as the proxy or
16 agent of the state's labor law enforcement agencies." *Arias v. Superior Court*, 46 Cal. 4th 969,
17 986 (2009).

18 The PAGA statute requires trial courts to "review and approve" any settlement of PAGA
19 claims. Cal. Lab. Code § 2699(l)(2).² In the absence of authority governing the standard of
20 review of PAGA settlements, the LWDA has in one action provided some guidance to the court.
21 *See California Labor and Workforce Development Agency's Comments on Proposed PAGA*
22 *Settlement, O'Connor v. Uber Techs., Inc.*, No. 3:13-cv-03826-EMC (N.D. Cal. Jul. 29, 2016),
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25 ¹ An "aggrieved employee" is defined as "any person who was employed by the alleged violator
26 and against whom one or more of the alleged violations was committed." Cal. Lab. Code
§ 2699(c).

27 ² The proposed settlement must also be submitted to the California Labor and Workforce
28 Development Agency ("LWDA") at the same time it is submitted to the court. *Id.*

1 ECF No. 736 at 2–3.³ There, where both class action and PAGA claims were covered by a
2 proposed settlement, the LWDA stressed that

3 when a PAGA claim is settled, the relief provided for under the
4 PAGA be genuine and meaningful, consistent with the underlying
5 purpose of the statute to benefit the public and, in the context of a
6 class action, the court evaluate whether the settlement meets the
standards of being “fundamentally fair, reasonable, and adequate”
with reference to the public policies underlying the PAGA.

7 *Id.*; see also Order, *Salazar v. Sysco Cent. Cal., Inc.*, No. 1:15-cv-01758-DAD-SKO (E.D. Cal.
8 Feb. 2, 2017), Doc. No. 25 at 4 (citing the same with approval); *O’Connor v. Uber Techs., Inc.*,
9 201 F. Supp. 3d 1110, 1133 (N.D. Cal. 2016) (same).

10 Recognizing the distinct issues presented by class actions, this court is nevertheless
11 persuaded by the LWDA’s reasoning expressed in *O’Connor* and therefore adopts its proposed
12 standard in evaluating the PAGA-related settlement agreement now before the court.
13 Accordingly, the court will approve a settlement of PAGA claims upon a showing that the
14 settlement terms (1) meet the statutory requirements set forth by PAGA, and (2) are
15 fundamentally fair, reasonable, and adequate⁴ in view of PAGA’s public policy goals.

16 DISCUSSION

17 Here, the proposed settlement of plaintiff’s PAGA claim is appropriate and will be
18 approved. In accordance with the statute’s requirements, plaintiff submitted notices of the alleged
19 Labor Code violations to both the LWDA and defendant prior to bringing this action. (*See* Doc.
20 No. 1-3 at ¶ 143.) Furthermore, the parties represent that they arrived at the settlement agreement
21 after discovery revealed that plaintiff’s PAGA claim lacked merit and that imposition of PAGA
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23 ³ See also *id.* at 3 (“The LWDA is not aware any existing case law establishing a specific
24 benchmark for PAGA settlements, either on their own terms or in relation to the recovery on
other claims in the action.”).

25 ⁴ The court’s determination as to fairness, reasonableness, and adequacy may involve a balancing
26 of several factors including but not limited to the following: the strength of plaintiffs’ claims; the
27 risk, expense, complexity, and likely duration of further litigation; the amount offered in
settlement; the extent of discovery completed, and the stage of the proceedings; and the
28 experience and views of counsel. See *Officers for Justice v. Civil Service Com’n of City and
County of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982).

1 penalties or damages is therefore inappropriate here. (See Docs. Nos. 19-1 ¶¶ 3-13; 22 ¶¶ 3-13.)
2 Under the proposed settlement agreement, no individual's PAGA claims are released except for
3 plaintiff's own. The parties have also provided a copy of their settlement agreement to the
4 LWDA. (See Doc. No. 23.) The settlement agreement explicitly states that plaintiff is not
5 recovering any amount for the claim brought under PAGA. (See Doc. No. 19 at ¶ 14.) To date,
6 the LWDA has not commented on or objected to the settlement. Having reviewed the parties'
7 submission and the terms of the proposed settlement, the court finds that the settlement
8 agreement, as it relates to plaintiff's PAGA claim, is fair, reasonable, and adequate in light of the
9 public policy goals of PAGA.


10 CONCLUSION

11 Accordingly,

- 12 1. The parties' settlement agreement is approved with respect to plaintiff's PAGA claim;
- 13 2. Plaintiff is directed to submit a copy of this order to the LWDA within ten days of the
14 date of this order;
- 15 3. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) and the parties' joint
16 stipulation for dismissal (Doc. No. 19), filed November 7, 2018, this action has been
17 dismissed with prejudice; and
- 18 4. The Clerk of the Court is directed to close this case.

19 IT IS SO ORDERED.

20 Dated: January 8, 2019

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23 UNITED STATES DISTRICT JUDGE
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