LaFrance v. Blue Cloud Pediatric Surgery Center et al. (Case No. 24CV05452)

Hearing Date: June 30, 2026
Nature of Proceeding: Preliminary Approval of Class Action Settlement

Attorneys:

For plaintiffs (in both cases): Mills Sadat Dowlat LLP, by Camron Dowlatshahi, Arash Sadat, Mir Raza

For defendant Blue Cloud Pediatric Surgery Center LLC: Hanson Bridgett LLP by Ryan L. Eddings

Tentative Ruling:

For all the reasons discussed below, counsel must be prepared to present a merits-based methodology why the reported maximum exposure was significantly discounted.

If satisfied, the court will grant the motion, provisionally certify the class, and appoint counsel and the proposed representative to represent the class.

Upon request for final approval, counsel to do the following:

- Provide the court with the average payout of each class member;
- Provide a full lodestar analysis in the motion for final approval;
- Document costs with meaningful descriptions;
- Address the reasonableness of the PAGA settlement.[1]

Background:

Plaintiff Samantha LaFrance ("plaintiff") worked as a non-exempt receptionist for defendant Blue Cloud Pediatric Surgery Center LLC from on or about May 8, 2023 through February 26, 2024. She commenced a putative class action alleging causes of action for (1) Failure to Pay Minimum Wage for All Hours Worked (Labor Code §§ 1182.12, 1194, 1194.2, 1197 and 1197.1); (2) Failure to Pay Overtime Compensation (Lab. Code §§ 1194 and 1198); (3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders); (4) Failure to Provide Rest Periods (Lab. Code §§ 226.7, 512, and IWC Wage Orders); (5) Failure to Indemnify Necessary Business Expenses (Lab. Code §§ 2802); (6) Waiting Time Penalties (Lab. Code §§ 201-203); (7) Failure to Provide Accurate Wage Statements (Lab. Code § 226); (8) Violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.); and (9) Private Attorneys General Act (Labor Code §§ 2698, et seq.). On April 22, 2026, she filed a second amended complaint in which she added Blue Cloud Investment Holdings, LLC as a defendant.

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[1] The reasonableness of the PAGA settlement was not addressed here, presumably because there is no requirement that it be "preliminarily" approved. The reasonableness of the settlement must nevertheless be considered. (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 76, disapproved on another ground in *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664, 710-711; see also *Shaw v. Superior Court of Contra Costa County* (2022) 78 Cal.App.5th 245,263 [" We emphasize that in any case involving a proposed PAGA settlement, the trial court must review the settlement for fairness and 'scrutinize whether, in resolving the action, a PAGA plaintiff has adequately represented the state's interests, and hence the public interest," citing *Moniz*].) The court expects PAGA-specific briefing in the petition for final approval.

Plaintiff seeks preliminary approval of a class action settlement in the amount of $945,000 for approximately 215 current and former employees. (Dowlatshahi Decl., ¶¶ 33, 46; Settlement Agreement, attached as Exhibit 1 to Dowlatshahi Decl., §§ 1.22, 4.1.)

The class is defined as:

> "All individuals employed by Defendant and/or the Released Parties in California and classified as a non-exempt, hourly W-2 employee at any time [from September 26, 2020 through September 30, 2025]."
>
> (Dowlatshahi Decl., ¶ 16; Settlement Agreement, attached as Exhibit 1 to Dowlatshahi Decl., § 1.5, 1.13.)

The fund will be reduced as follows:

Gross Settlement Amount	$ 945,000
Class Counsel Fees	$ 315,000
Class Counsel Expenses	$ 20,000
Settlement Administration Costs	$ 6,850
Plaintiffs Service Award	$ 5,000
PAGA to LWDA	$ 56,200
Net Settlement Amount	$ 541,950

The amount of the net settlement to be paid to each class member will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. (Dowlatshahi Decl., ¶ 16; Settlement Agreement, ¶ 3.3(a).) Based on simple math, it appears that the average payout will be approximately $2,520 ($541,950 divided by 215 class members). Each Individual Settlement Share will be allocated as follows: twenty percent (20%) wages and eighty percent (80%) penalties, interest, and non-wage damages.

The gross settlement amount is non-reversionary. (Settlement Agreement, ¶ 1.22.) For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to Legal Aid at Work, a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384(b) ("Cy Pres Recipient"). Legal Aid at Work is a nonprofit organization that partners with low-wage and marginalized workers in California to help them understand and assert their workplace rights through free legal clinics, individual representation, and policy advocacy. These services promote the same goals as this lawsuit, namely, ensuring that workers are paid properly and treated lawfully. (Dowlatshahi Decl., ¶ 92.) Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient. (Dowlatshahi Decl., ¶ 94; Settlement Agreement, ¶ 5.4.) The court finds the *cy pres* recipient to fulfill the purposes of the lawsuit or is otherwise appropriate. (See Code Civ. Proc., § 384; *State of California v. Levi Strauss & Co.* (1986) 41 Cal.3d 460, 472; *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 722

["The court's proper focus in this context is not so much whether another type of distribution might be better, but the extent to which the distribution, *as proposed,* is appropriately useful in fulfilling the purposes of the underlying cause of action"].)

Analysis:

1. General Standards for Approval of a Class Action Settlement

Review of a proposed class action settlement typically involves a two-step process: preliminary approval and a subsequent final approval hearing. (*Cellphone Termination Fee Cases* (2009) 180 Cal.App.4th 1110, 1118—"Rule 3.769 of the California Rules of Court [CRC] sets forth the procedures for settlement of class actions in California.")

Procedurally, a party must move for "preliminary approval of the settlement." (CRC 3.769(c).) After the hearing, the court makes an order approving or denying "certification of a provisional settlement class." (CRC 3.769(d).) If the court grants preliminary approval, it must set a final approval hearing, and provide for notice to be given to the class. (CRC 3.769(e).) "The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement." (CRC 3.769(f).) At the final approval hearing, "the court must conduct an inquiry into the fairness of the proposed settlement." (CRC 3.769(g).) If the court approves the settlement agreement, it enters judgment accordingly. (CRC 3.769(h).) (See *Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 93.)

The first step is for the court to review the proposed terms of the settlement at a preliminary hearing and make a preliminary determination on the fairness, reasonableness, and adequacy of the settlement terms. (CRC 3.769(c); see also Manual for Complex Litigation, (Federal Judicial Center 4th ed. 2021), § 21.632.)[2] The preliminary evaluation requires the court to address two competing concerns: (1) On the one hand, given that the court would have the opportunity to weigh the settlement's strengths and weaknesses with more information at the final approval hearing, the preliminary approval hearing did not need to substitute for that level of review; (2) On the other hand, sending notice to the class costs money and triggers the need for class members to consider the settlement, actions which are wasteful if the proposed settlement is obviously deficient from the outset. (Newberg on Class Actions, Class Actions in State Courts, Preliminary Approval (4th Ed. 2002) § 13:10; see *In re Traffic Executive Association–Eastern Railroads* (2d Cir.1980) 627 F.2d 631, 634.) "The judge should raise questions at the preliminary hearing and perhaps seek an independent review if there are reservations about the settlement, such as unduly preferential treatment of class representatives or segments of the class, inadequate compensation or harms to the classes, the need for subclasses, or excessive compensation for attorneys." (Manual for Complex Litigation, supra, § 21.632.)

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[2] The Manual for Complex Litigation is widely relied upon by federal judges as well as practitioners regarding the organization and administration of class actions and other complex litigation matters. (*Parris v. Superior Court* (2003) 109 Cal.App.4th 285, 298.) The Manual does not have the force of law, but in federal court it does "provide a rough guide by which to measure whether the trial judge acted within his discretion." (*In re General Motors Corp. Engine Interchange Litigation* (7th Cir.1979) 594 F.2d 1106, 1124, fn. 22.) The court relies on it here for its useful description of the relative scope of the preliminary approval and final approval process for class settlements.

Precertification settlements in class actions should be scrutinized carefully. (*Cho v. Seagate Technology Holdings, Inc.* (2009) 177 Cal.App.4th 734, 743.) This is accomplished through careful review by the trial court, and precertification settlements are routinely approved where they are found fair, adequate and reasonable. (*Ibid*; see also *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 240.)

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.” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 (*Dunk*).) This list “is not exhaustive and should be tailored to each case.” (*Dunk*, at p. 1801.) “[A] presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” (*Dunk*, at p. 1802.)

This is only an initial presumption; a trial court's ultimate approval of a class action settlement will be vacated if the court “is not provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise.” In short, the trial court may not determine the adequacy of a class action settlement “without independently satisfying itself that the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation.” (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408.)

The court undoubtedly 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. While an agreement reached under these circumstances presumably will be fair to all concerned, particularly when few of the affected class members express objections, in the final analysis it is the court that bears the responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation. The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement. (*Munoz, supra*, 186 Cal.App.4th at p. 408, fn. 6.)

With these standards in mind, the court must determine whether there are preliminary matters that must be resolved; whether the settlement agreement is fair, adequate, reasonable; whether preliminary certification of the class is appropriate; whether the proposed procedures appear sound; whether attorney’s fees, costs, and settlement administrator and its costs are appropriate; and whether any class representative enhancement as requested is justified.

2. Is the Class Action Settlement Fair, Adequate and Reasonable?

As noted, a presumption of fairness exists where the settlement is reached through arm's length bargaining; investigation and discovery are sufficient to allow counsel and the court to act intelligently; counsel is experienced in similar litigation; and the percentage of objectors is small. (*Dunk, supra*, at p. 1802.)

Here, a private full-day mediation occurred with Michael Mandel, on July 30, 2025, at the end of which the parties continued to negotiate until they reached a settlement. (Dowlatshahi Decl., ¶ 7; Settlement Agreement ¶ 2.5)

Prior to mediation, Defendants produced, through informal discovery, meal and rest break policies and overtime policies, as well as the estimated number of pay periods, workweeks, and employees from December 2021 to May 2025. In addition, Plaintiff's Counsel reviewed and analyzed a sampling of time and payroll records for putative class members and aggrieved employees, Defendants' statements of wage-and-hour policies provided to putative class members and aggrieved employees, including employee handbooks, among other things. Plaintiff's Counsel, through Plaintiff's expert statistician, conducted a statistical analysis of the information, extrapolated the data to cover the period from September 2020 through July 2025, and presented the information during mediation. (Dowlatshahi Decl., ¶ 7.) Plaintiff's investigation appears sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 129-130.)

Finally, the court must consider the reaction of the class members to the proposed settlement. As this is a request for preliminary approval, there has been no opportunity for the proposed class members to react.

The above factors favor the presumption of fairness.

The most important factor is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement. While the court "must stop short of the detailed and thorough investigation that it would undertake if it were actually trying the case," it must eschew any rubber stamp approval in favor of an independent evaluation. (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 407-408 (*Munoz*).) To perform this balance, the trial court must have "a record which allows 'an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.' " (*Munoz, supra,* at p. 409; see *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 801; *Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 120.) While an express statement of the maximum amount is not required, there must be a record that is sufficiently developed to allow the court to understand the amount in controversy and the realistic ranges of outcomes of the litigation. (See *Munoz, supra*, 186 Cal.App.4th at p. 409.)

The following represents the maximum estimated exposure of each of the class claims, as reported in the Dowlatshahi Declaration, ¶¶ 32- 45.

Meal periods	$ 1,708,568 (including meal period premiums paid)
Rest periods	$ 667,004 (at 25% violation rate)
Waiting time penalties	$ 1,057,056
Wage Statement penalties	$ 860,000
Total:	**$4,292,628**

The settlement thus discounts this maximum exposure by approximately 77%.

Counsel describes the procedural risks involved with litigation, specifically the hurdles to obtain class certification. For example, certification of meal period and overtime classes would be difficult because of the individualized inquiry required. Moreover, the claims would require substantia preparation and discovery and ultimately would involve the deposition and presentation of numerous more and ultimately would involve the deposition and presentation of numerous more witnesses (including Class Members and expert witnesses), as well as the consideration, preparation, and analysis of expert reports. Therefore, further class litigation, if permitted, would have carried with it significant expense incurred by each side witnesses (including Class Members and expert witnesses), as well as the consideration, preparation, and analysis of expert reports. Therefore, further class litigation, if permitted, would have carried with it significant expense incurred by each side. (Dowlatshahi Decl., ¶ 26-29.)

This a fairly generic description of the procedural reasons why a settlement might be preferable. The court directs plaintiff's counsel to be prepared to present a merits-based methodology why the reported maximum exposure was significantly discounted.

3. Preliminary Certification of Class for Settlement Purposes

Class action certification questions are essentially procedural and involve an assessment of whether there is a common or general interest between numerous people. The burden is on the proponent to show an ascertainable class with a well-defined community interest, meaning predominant commons question of law or fact, class representatives with claims or defenses typical of class, and class representatives who can adequately represent the class. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326.)

There has been a sufficient preliminary showing of numerosity, ascertainability, and predominance of commonality. The class is not inordinately large, during a defined class period, with names obtained through existing employment records. It appears the claims are sufficiently similar, subject to the same policies or practices, with similar job duties and universal formula. It also appears the class representatives have typical claims of the class as a whole. A class action appears the superior way to a fair and efficient adjudication of the lawsuit. Certification of the class for settlement only seems appropriate.

4. Notice Procedures for the Claim Forms and Opt-Out

The class notice and claim form instructions are attached to Exhibit A of the Settlement Agreement. It properly details the nature of the lawsuit and identifies the proposed class. It provides the nature of the class claims and who may be eligible. It states that the parties have agreed to a settlement amount of $945,000.00.

The Notice discloses the proposed deductions that will come from the settlement amount. It explains the terms of the class action settlement, and notably how an individual class member's award will be calculated (i.e., based on the total number of workweeks they were employed by defendant). It estimates the class member's individual settlement share. It indicates that class members need not do anything to be deemed part of the class, what this means, and the nature of the general release required. The notice also explains what the class member can do if he or she does not want to participate (opt out), or if they simply want to object. It explains the nature of the preliminary approval process, culminating in the final approval hearing. The notice also indicates how the class member can obtain more information. The procedures seem standard. The time frames discussed in the notices and implementation procedures outlined in the order are appropriate. The Notice will be provided to each Class Member in Spanish. (See Dowlatshahi Decl., Exh. 2, Estimate).

5. Settlement Administrator Fees and Costs

The parties have agreed to use ILYM as the settlement administrator, and costs have been estimated to be $9,950. (Dowlatshahi Decl., ¶¶ 18-19.) The costs appear reasonable and roughly approximate the typical request.

6. Class Counsel's Request for Fees and Costs

Counsel asks the court to preliminary approve fees of up to $315,000 which is 33 1/3 % of the Gross Settlement Amount of $945,000.00, along with litigation costs of up to $20,000. Attorney Dowlatshahi asserts the fees are reasonable under the common fund theory; is fair for undertaking a complex, risky, and time-consuming litigation on a contingency basis; her firm has already expended significant hours on the matter; and will continue to expend efforts. (Dowlatshahi Decl., ¶¶48-59.) She details the background of the attorneys involved in this matter as well as the firm's experience with similar matters. (Dowlatshahi Decl., ¶¶ 60 – 74.)

The court *preliminarily* approves the request in the "not to exceed" amount of $315,00.00. It also directs counsel to provide a full lodestar analysis in the motion for final approval. The court also preliminarily approves class counsel expenses up to $20,000. At the final approval, the costs must be well documented and meaningfully described.

7. Enhancement for Class Representative

Class counsel asks for an enhancement the named plaintiff of $5,000. It is established that a named plaintiff is eligible for reasonable incentive payments to compensate him or her for the expense or risk they have incurred in conferring benefit on other members of the class. (*Munoz, supra*, 186 Cal.App.4th at p. 412.) Relevant factors include actions the plaintiff has taken to protect the interests of the class, the degree to which the class had benefited from those actions, the amount of time and effort the plaintiff has expended, the risk to the class representative of commencing suit, the notoriety and personal difficulties encountered by the class representative, the duration of the litigation, and the personal benefit enjoyed by the class representative. (*Clark, supra*, 175 Cal.App.4th at p. 804.) The rationale in the end is to compensate class representatives for the expense or risk they have incurred in conferring a benefit on other members of the class. (*Id*. at p. 806.)

As observed by one federal district court, "there is ample case law finding $5,000 to be a reasonable amount for an incentive payment." (*See, e.g. Wren v. RGIS Inventory Specialists*, (N.D. Cal. Apr. 1, 2011) 2011 WL 1230826, at **19* (approving $5,000 to named plaintiffs in a $27,000,000 settlement), citing *Hopson v. Hanesbrands Inc.* (N.D. Cal. 2009) 2009 WL 928133, at *10 (approving $5,000 incentive award in a $408,420 settlement in which the average plaintiff received $1568.44); (*Pauley v. CF Entertainment* (C.D. Cal., 2020_ 2020 WL 5809953, at *4.)

The question then becomes whether the incentive payments are proportional to the Settlement Amount. (*Id.*) Cases have expressed concern when there is a large disparity between an incentive award and recovery of class members. (*Clark v. American Residential Services, LLC, supra,* 175 Cal.App.4th at p. 806, fn. 14, citing *Alberto v. GMRI, Inc*. (2008) 252 F.R.D. 652, 669 [given a proposed $5,000 incentive award and an average $24.17 recovery (multiple of just over 20), when there was no evidence demonstrating the quality of plaintiff's representative service; plaintiff should be prepared to present evidence of the named plaintiff's "substantial efforts" as class representative to justify the discrepancy between the award and those of the unnamed plaintiffs"].)

Plaintiff LaFrance has submitted a declaration stating that she has spent approximately 20-30 hours "assisting with this case to date, including time reviewing documents, assisting with the factual investigation, and staying apprised of the case's developments" (LaFrance Decl., ¶ 7.) She also points out the risk of bringing this lawsuit, including potential reputational harm and liability for costs if the case were unsuccessful. (*Id.* at ¶ 3.) This is a fairly generic declaration. However, the payment does not seem disproportional to the recovery of the class members.

Thus, the court will find the incentive payment to be reasonable for purposes of the preliminary request.