

Filed  
January 9, 2025  
Clerk of the Court  
Superior Court of CA  
County of Santa Clara  
22CV397316  
By: tduarte

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SUPERIOR COURT, STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

KAMLESH KRISHNA, et al., as an individual)	Case No.: 22CV397316	
and on behalf of all others similarly situated, )	)	
Plaintiffs,	)	ORDER GRANTING PLAINTIFFS’
v.	)	MOTION FOR FINAL APPROVAL OF
	)	CLASS ACTION AND PAGA
	)	SETTLEMENT
	)	
CEPHEID, et al.,	)	Dept. 7
Defendants.	)	
	)	
	)	
	)	

This is a class and representative action arising from alleged wage and hour violations. Plaintiffs Kamlesh Krishna and Rex Servania (collectively, “Plaintiffs”) allege that Defendant Cepheid (“Defendant”) committed various Labor Code violations. Before the court is Plaintiffs’ unopposed motion for final approval of settlement. As discussed below, the court will GRANT the motion.

**I. BACKGROUND**

According to the allegations of the operative Third Amended Complaint (“TAC”), Plaintiffs were employed by Defendant Cepheid at various times between April 2019 and May

1 2022. Plaintiffs allege that Defendant failed to pay sick pay at the regular rate of pay as  
2 mandated by law and failed to provide accurate itemized wage statements.

3 On April 26, 2022, Plaintiff Krishna began this action by filing a Complaint. She then  
4 filed a First Amended Complaint, adding a claim under the Private Attorneys General Act  
5 (“PAGA”) and adding Mr. Servania as a Plaintiff. Plaintiffs filed a second amended complaint  
6 on January 5, 2023, dismissing their claim for violation of Labor Code section 204. Defendant  
7 filed a writ petition challenging the court’s order on its demurrer; the Court of Appeal denied the  
8 writ petition on March 11, 2023. Plaintiffs filed the TAC on June 28, 2023, asserting the  
9 following causes of action: (1) violation of Labor Code §§ 201-203, 233 and 246; (2) violation of  
10 Labor Code § 226(a); (3) violation of Labor Code § 2698, et seq.; and (4) violation of Business  
11 & Professions Code § 17200, et seq.

12 The parties have reached a settlement. On July 25, 2024, the court issued an order  
13 granting Plaintiffs’ motion for preliminary approval of the settlement and setting a final approval  
14 hearing for January 9, 2024. On December 16, 2024, Plaintiffs filed their motion requesting final  
15 approval of the settlement.

16 **II. LEGAL STANDARDS FOR SETTLEMENT APPROVAL**

17 **A. Class Action**

18 Generally, “questions whether a [class action] settlement was fair and reasonable,  
19 whether notice to the class was adequate, whether certification of the class was proper, and  
20 whether the attorney fee award was proper are matters addressed to the trial court’s broad  
21 discretion.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234–235 (*Wershba*),  
22 disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th  
23 260.)

24 “In determining whether a class settlement is fair, adequate and reasonable, the trial court  
25 should consider relevant factors, such as the strength of plaintiffs’ case, the risk, expense,

1 complexity and likely duration of further litigation, the risk of maintaining class action status  
2 through trial, the amount offered in settlement, the extent of discovery completed and the stage  
3 of the proceedings, the experience and views of counsel, the presence of a governmental  
4 participant, and the reaction of the class members to the proposed settlement.” (*Wershba, supra*,  
5 91 Cal.App.4th at pp. 244–245, internal citations and quotations omitted.)

6 In general, the most important factor is the strength of the plaintiffs’ case on the merits,  
7 balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008)  
8 168 Cal.App.4th 116, 130 (*Kullar*.) But the trial court is free to engage in a balancing and  
9 weighing of relevant factors, depending on the circumstances of each case. (*Wershba, supra*, 91  
10 Cal.App.4th at p. 245.) The trial court must examine the “proposed settlement agreement to the  
11 extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or  
12 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a  
13 whole, is fair, reasonable and adequate to all concerned.” (*Ibid.*, citation and internal quotation  
14 marks omitted.) The trial court also must independently confirm that “the consideration being  
15 received for the release of the class members’ claims is reasonable in light of the strengths and  
16 weaknesses of the claims and the risks of the particular litigation.” (*Kullar, supra*, 168  
17 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be  
18 “provided with basic information about the nature and magnitude of the claims in question and  
19 the basis for concluding that the consideration being paid for the release of those claims  
20 represents a reasonable compromise.” (*Id.* at pp. 130, 133.)

## 21 B. PAGA

22 Labor Code section 2699, subdivision (1)(2) provides that “[t]he superior court shall  
23 review and approve any settlement of any civil action filed pursuant to” PAGA. The court’s  
24 review “ensur[es] that any negotiated resolution is fair to those affected.” (*Williams v. Superior*  
25 *Court* (2017) 3 Cal.5th 531, 549.) Seventy-five percent of any penalties recovered under PAGA

1 go to the Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-  
2 five percent for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC*  
3 (2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v.*  
4 *Moriana* (2022) 596 U.S. 639, 2022 U.S. LEXIS 2940.)

5 Like its review of class action settlements, the court must “determine independently  
6 whether a PAGA settlement is fair and reasonable,” to protect “the interests of the public and the  
7 LWDA in the enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72  
8 Cal.App.5th 56, 76–77.) It must make this assessment “in view of PAGA’s purposes to  
9 remediate present labor law violations, deter future ones, and to maximize enforcement of state  
10 labor laws.” (*Id.* at p. 77; see also *Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383 F.  
11 Supp. 3d 959, 971 [“when a PAGA claim is settled, the relief provided for under the PAGA  
12 [should] be genuine and meaningful, consistent with the underlying purpose of the statute to  
13 benefit the public ....”], quoting LWDA guidance discussed in *O’Connor v. Uber Technologies,*  
14 *Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O’Connor*).

15 The settlement must be reasonable in light of the potential verdict value. (See *O’Connor,*  
16 *supra*, 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential  
17 verdict].) But a permissible settlement may be substantially discounted, given that courts often  
18 exercise their discretion to award PAGA penalties below the statutory maximum even where a  
19 claim succeeds at trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-  
20 CV-02198-EMC) 2016 WL 5907869, at \*8–9.)

### 21 **III. SETTLEMENT CLASS**

22 For settlement purposes only, Plaintiffs requests the following Class be finally certified:  
23 All non-exempt California employees of Cepheid who were paid non-discretionary incentive  
24 wages covering any periods in which sick pay was paid to the employee between April 25, 2019  
25 and December 22, 2022, and whose employment ended, either voluntarily or involuntarily, at

1 any time from April 25, 2019 to February 6, 2024 excluding those individuals who executed a  
2 severance agreement releasing the claims herein.

3 Rule 3.769(d) of the California Rules of Court states that “[t]he court may make an order  
4 approving or denying certification of a provisional settlement class after [a] preliminary  
5 settlement hearing.” California Code of Civil Procedure Section 382 authorizes certification of a  
6 class “when the question is one of a common or general interest, of many persons, or when the  
7 parties are numerous, and it is impracticable to bring them all before the court ....”

8 Section 382 requires the plaintiff to demonstrate by a preponderance of the evidence: (1) an  
9 ascertainable class and (2) a well-defined community of interest among the class members. (*Sav-*  
10 *On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, 332 (*Sav-On Drug Stores*).

11 “Other relevant considerations include the probability that each class member will come forward  
12 ultimately to prove his or her separate claim to a portion of the total recovery and whether the  
13 class approach would actually serve to deter and redress alleged wrongdoing.” (*Linder v. Thrifty*  
14 *Oil Co.* (2000) 23 Cal.4th 429, 435.) The plaintiff has the burden of establishing that class  
15 treatment will yield “substantial benefits” to both “the litigants and to the court.” (*Blue Chip*  
16 *Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385.)

17 In the settlement context, “the court’s evaluation of the certification issues is somewhat  
18 different from its consideration of certification issues when the class action has not yet settled.”  
19 (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 93.) As no trial is anticipated in the  
20 settlement-only context, the case management issues inherent in the ascertainable class  
21 determination need not be confronted, and the court’s review is more lenient in this respect. (*Id.*  
22 at pp. 93–94.) But considerations designed to protect absentees by blocking unwarranted or  
23 overbroad class definitions require heightened scrutiny in the settlement-only class context, since  
24 the court will lack the usual opportunity to adjust the class as proceedings unfold. (*Id.* at p. 94.)

1 At preliminary approval, the court provisionally certified the above-described class,  
2 determining that Plaintiffs had demonstrated by a preponderance of the evidence (1) an  
3 ascertainable class, (2) a well-defined community of interest among the class members and (3)  
4 that a class action provides substantial benefits to both litigants and the court. Consequently, the  
5 court will certify the class for settlement purposes as requested.

#### 6 **IV. TERMS AND ADMINISTRATION OF SETTLEMENT**

7 The non-reversionary gross settlement amount is \$750,000. This amount includes  
8 attorneys' fees of up to one-third of the settlement (\$250,000), litigation costs of up to \$30,000,  
9 and up to \$11,000 in administrative costs. \$75,000 will be allocated to PAGA penalties, 75% of  
10 which (\$56,250 ) will be paid to the LWDA, with the remaining 25% (\$18,750) paid to "PAGA  
11 Members," who are defined as "all non-exempt California employees of Cepheid who were paid  
12 non-discretionary incentive wages covering any period in which sick pay was paid to the  
13 employees by Cepheid between April 25, 2021 and December 22, 2022, and who whose  
14 employment ended, either voluntarily or involuntarily at any time from April 25, 2021 to  
15 February 6, 2024." Plaintiffs each seek a service payment of \$10,000.

16 The net settlement amount will be allocated to Class members on a pro rata basis based  
17 on the number of weeks worked during the Class Period. For tax purposes, settlement payments  
18 will be allocated 5% to wages and 95% to penalties. The PAGA payment will be allocated 100%  
19 as income. Funds associated with checks uncashed after 180 days will be transmitted to the  
20 Controller of the State of California to be held in trust for such class members pursuant to  
21 California unclaimed property law.

22 In exchange for settlement, Class members who do not opt-out will release Defendant  
23 and related persons and entities from all claims that were alleged or that reasonably could have  
24 been alleged based on the facts alleged in any version of the Complaints filed in the lawsuit.  
25 Aggrieved Employees, who by statute may not opt out of the PAGA portion of the settlement,

1 will be deemed to release Defendant and related persons and entities from all claims for PAGA  
2 penalties that were alleged or that reasonably could have been alleged based on the facts alleged  
3 in the LWDA Letter submitted by Plaintiffs Case, Murphy and Fajardo. The Plaintiffs also agree  
4 to a comprehensive general release. The releases are appropriately tailored to the allegations at  
5 issue. (See *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.)

6 The notice period has now been completed. Kaylie O'Connor (of settlement administrator  
7 CPT Group, Inc. ("CPT")) has submitted a declaration describing the notice process. On August  
8 9, 2024, CPT received class data files from Defense counsel containing the names, social  
9 security numbers, last known mailing addresses, and the total number of relevant workweeks  
10 worked for each of the Class Members. The finalized class list contained 353 Class Members,  
11 and CPT processed the addresses it had against the National Change of Address database to  
12 confirm and update this information.

13 On August 24, 2024, CPT mailed the notice packets to all Class Members via first class  
14 mail.

15 As of December 3, 2024 (the date of Ms. O'Connor's declaration), only one notice was  
16 ultimately deemed undeliverable. The deadline to object or request exclusion from the settlement  
17 was October 7, 2024. As of December 3, 2024, CPT has not received any written objections or  
18 any requests for exclusion. Consequently, CPT reports a total of 353 Participating Class  
19 Members, representing a 100% participation rate. CPT estimates that the average individual  
20 settlement payment prior to the deduction of payroll taxes will be \$1,091.61.

21 At preliminary approval, the court found that the proposed settlement provides a fair and  
22 reasonable compromise to Plaintiffs' claims, and that the PAGA settlement is genuine,  
23 meaningful, and fair to those affected. It finds no reason to depart from these findings now,  
24 especially considering that there are no objections. Therefore, the court finds that the settlement  
25 is fair and reasonable for the purposes of final approval.

ORDER GRANTING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS  
ACTION AND PAGA SETTLEMENT

1           **V.       ATTORNEYS’ FEES, COSTS, AND INCENTIVE AWARDS**

2           As set forth above, Plaintiff’s counsel seeks a fee award of \$250,000, or one-third of the  
3 gross settlement amount. The court observes that this is a common fee arrangement in wage and  
4 hour class actions. Plaintiff also provides a lodestar figure of \$358,760, based on approximately  
5 412 hours of work at billing rates of \$850 to \$900 per hour. This results in a negative multiplier,  
6 bringing the requested fees well within the range that courts typically approve. (See *Laffitte v.*  
7 *Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 488, 503–504 (*Laffitte*) [trial court did not abuse  
8 its discretion in approving fee award of 1/3 of the common fund, cross-checked against a lodestar  
9 resulting in a multiplier of 2.03 to 2.13]; *Wershba, supra*, 91 Cal.App.4th at p. 255  
10 [“[m]ultipliers can range from 2 to 4 or even higher”]; *Vizcaino v. Microsoft Corp.* (9th Cir.  
11 2002) 290 F.3d 1043, 1051, fn. 6 [stating that multipliers ranging from one to four are typical in  
12 common fund cases and citing the court’s own survey of large settlements finding “a range of  
13 0.6–19.6, with most (20 of 24, or 83%) from 1.0–4.0 and a bare majority (13 of 24, or 54%) in  
14 the 1.5–3.0 range”].)

15           Accordingly, the court finds the requested fee award to be reasonable and awards  
16 attorneys’ fees in the requested amount of \$250,000.

17           Plaintiffs’ counsel also seeks \$8,661.02 in litigation costs, which is well below the  
18 \$30,000 maximum amount permitted under the settlement agreement. Based on the information  
19 contained in the declarations of Plaintiffs’ attorneys, this amount is reasonable and is therefore  
20 approved. The requested \$11,000 amount in administrative costs, the maximum under the  
21 settlement’s terms, is also approved. (O’Connor Dec., ¶ 17.)

22           Finally, Plaintiffs request enhancement awards of \$10,000. To support this request,  
23 Plaintiffs have each submitted a declaration describing their efforts in this action. The court finds  
24 that Plaintiffs are entitled to enhancement awards and that the amounts requested are reasonable.  
25 Therefore, the enhancement awards are approved in the amounts requested.



1           **VI. CONCLUSION**

2           In accordance with the above, IT IS HEREBY ORDERED, ADJUDGED, AND  
3    DECREED THAT:

4           Plaintiff’s motion for final approval and for fees and costs is GRANTED. The following  
5    class is certified for settlement purposes only:


6           All non-exempt California employees of Cepheid who were paid non-discretionary  
7    incentive wages covering any periods in which sick pay was paid to the employee between April  
8    25, 2019 and December 22, 2022, and whose employment ended, either voluntarily or  
9    involuntarily, at any time from April 25, 2019 to February 6, 2024 excluding those individuals  
10   who executed a severance agreement releasing the claims herein.

11           Judgment will be entered through the filing of this order and judgment. (Code Civ. Proc.,  
12   § 668.5.) Plaintiff and the members of the Class/Aggrieved Employees will take from the TAC  
13   only the relief set forth in the settlement agreement and this order and judgment. Pursuant to  
14   Rule 3.769(h) of the California Rules of Court, the court will retain jurisdiction over the parties  
15   to enforce the terms of the settlement agreement and the final order and judgment.

16 //  
17 //  
18 //  
19 //  
20 //  
21 //  
22 //  
23 //  
24 //  
25 //

1 The court sets a compliance hearing for **August 7, 2025 at 2:30 P.M.** in Department 7.  
2 At least ten court days before the hearing, class counsel and the settlement administrator shall  
3 submit a summary accounting of the net settlement fund identifying distributions made as  
4 ordered herein; the number and value of any uncashed checks; amounts remitted pursuant to  
5 Code of Civil Procedure section 384, subdivision (b); the status of any unresolved issues; and  
6 any other matters appropriate to bring to the Court's attention. Counsel shall also submit an  
7 amended judgment as described in Code of Civil Procedure section 384, subdivision (b). Counsel  
8 may appear at the compliance hearing remotely.

9  
10 DATED: January 9, 2025

  
11 CHARLES F. ADAMS  
12 Judge of the Superior Court  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25