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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

MANUEL FLORES et al.,

Plaintiffs and Respondents,

v.

WALMART, INC., et al.,

Defendants and Respondents;

CHELSEA HAMILTON et al.,

Movants and Appellants.

G063874, G063962

(Super. Ct. No. CIVDS2023061)

O P I N I O N

MANUEL FLORES et al.,

Plaintiffs and Respondents,

v.

WALMART, INC., et al.,

Defendants and Respondents;

CHELSEA HAMILTON et al.,

Movants and Appellants.

Appeals from orders of the Superior Court of San Bernardino County, Joseph T. Ortiz, Judge. Dismissed as to appeal No. G063874. Dismissed in part and affirmed in part as to appeal No. G063962. Request for judicial notice granted.

Yoon Law, Kenneth H. Yoon, Stephanie E. Yasuda; Law Offices of G. Samuel Cleaver and G. Samuel Cleaver for Movants and Appellants.

Clarkson Law Firm, Glenn A. Danas, Ashley M. Boulton, Katelyn M. Leeviraphan; Blumenthal Nordrehaug Bhowmik de Blouw, Norman B. Blumenthal, Kyle Nordrehaug; James Hawkins, James R. Hawkins, Isandra Fernandez and Lance Dacre for Plaintiffs and Respondents.

Greenberg Traurig, Karin L. Bohmholdt, Matthew R. Gershman and Hannah B. Shanks-Parkin for Defendants and Respondents.

* * *

In the instant action, plaintiffs Manual Flores and Dean Waltz asserted proposed class wage and hour claims and a claim to recover penalties under the Labor Code Private Attorney General Act of 2004 (PAGA) (Lab. Code, § 2698) against Walmart, Inc. and Wal-Mart Associates, Inc. (collectively, Walmart). After the trial court granted preliminary approval of the parties' agreement to settle the class and PAGA claims in the instant case, former employees Chelsea Hamilton, Claudia Carr, Lashawna Wicker, and Crystal Rosas (the Hamilton appellants), who had similar PAGA lawsuits pending against Walmart in federal court, moved to intervene in the instant action.

While their motions were pending, Hamilton, Carr, and L. Wicker filed forms to opt out from participating in the preliminarily-approved settlement. Another set of former and current employees, who belonged to the settlement agreement's proposed class, Rene Renteria, Harvey Wicker, and

Ray Cabrera (the Renteria appellants), filed objections to the proposed settlement. Rosas neither filed objections to, nor opted out of, the proposed settlement agreement.

The trial court denied the Hamilton appellants' motions to intervene, overruled the Renteria appellants' objections, gave its final approval of the settlement agreement, and ordered judgment entered accordingly. The Hamilton appellants and the Renteria appellants jointly filed a motion to vacate the judgment under Code of Civil Procedure section 663, subdivision (a)(1);[1] the court denied that motion as well.

The Hamilton appellants appeal from the order denying their motions to intervene. The Hamilton appellants and the Renteria appellants appeal from the order denying their motion to vacate the judgment.

During the briefing stage of these consolidated appeals, the California Supreme Court decided *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664, 630 (*Turrieta*), in which the court held that allowing litigants of a PAGA action "to intervene in the ongoing PAGA action of another plaintiff asserting overlapping claims, to require a court to consider objections to a proposed settlement in that overlapping action, and to move to vacate the judgment in that action—would be inconsistent with the scheme the Legislature enacted." As *Turrieta* established, a PAGA litigant does not have the right to intervene in another PAGA action or challenge the court's approval of the settlement of such an action by way of a motion to vacate the resulting judgment. Because the Hamilton appellants lacked standing to intervene in the instant action and challenge the judgment, the trial court correctly denied their motions and their appeals must be dismissed.

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[1] All further statutory references are to this code unless otherwise specified.

As for the Renteria appellants' appeal from the denial of the motion to vacate the judgment, we dismiss the portion challenging the settlement agreement's resolution of the PAGA claim due to their lack of standing to so challenge that aspect of the judgment. We otherwise affirm the denial of their motion to vacate the judgment because they failed to show the trial court abused its discretion by overruling their objections to the settlement agreement or by otherwise finally approving the parties' settlement of the class claims in the instant action.

FACTUAL AND PROCEDURAL HISTORY

I.

FLORES AND WALTZ FILE PUTATIVE CLASS ACTION LAWSUITS ALLEGING WAGE AND HOUR VIOLATIONS AND PAGA ACTIONS

On May 29, 2020, Flores filed a PAGA representative action against Walmart, alleging Walmart violated various provisions of the Labor Code by failing to timely pay lawful wages, provide meal and rest periods, and provide itemized wage statements. On October 20, 2020, Flores filed a putative class action lawsuit, similarly asserting claims Walmart failed to timely pay lawful wages, provide itemized wage statements, and provide meal and rest periods, or compensation in lieu thereof, and also asserting Walmart violated the unfair competition law (Bus. & Prof. Code, § 17200 et seq.).

On June 11, 2021, Waltz filed a putative class action lawsuit against Walmart asserting various wage and hour violations, and on August 5, 2021, he filed a PAGA action.[2]

[2] While both the Flores and Waltz purported class action cases were removed to federal court, they both were remanded to the San Bernardino Superior Court.

II.

PRELIMINARY SETTLEMENT AND CONSOLIDATION OF THE FLORES AND WALTZ ACTIONS

After the parties conducted "extensive informal discovery," on July 7, 2022, the parties engaged in a "full-day, arms-length mediation" with an experienced wage and hour class action neutral. Ultimately, a mediator's proposal was issued and accepted by the parties, settling the Flores and Waltz actions in one agreement.

Subsequently, the parties entered "a comprehensive, long-form settlement agreement as to both Flores and Waltz matters." As described by the trial court: "Ultimately, the parties stipulated to consolidation on April 4, 2023. The consolidated matter covers alleged violations for (1) wages; (2) meal-and-rest periods; (3) final pay; (4) wage statements; (5) reimbursements; and (6) unfair competition; as well as claims for civil penalties pursuant to PAGA. This consolidated matter would represent all hourly, non-exempt distribution or fulfillment center employees of [Walmart] or its affiliates, who worked in California, during the period from March 9, 2016, through January 7, 2023. [Citation.] This class is estimated at 30,190 employees. The PAGA period would be from June 2, 2021, through January 7, 2023, and would have an estimated size of 15,384 employees."[3]

On April 20, 2023, the trial court preliminarily approved the proposed settlement agreement.

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[3] Some formatting in quoted portions of the record and appellate briefs is omitted throughout the opinion for readability.

III.

FLORES, WALTZ, AND WALMART AMEND THEIR SETTLEMENT AGREEMENT TO EXPRESSLY EXCLUDE FROM ITS RELEASE THE WAGE AND HOUR CLAIM HAMILTON HAD SUCCESSFULLY LITIGATED IN FEDERAL COURT

Almost four years earlier, before Flores and Waltz had filed their lawsuits, former Walmart employee Hamilton filed in state court a putative class action based on wage and hour claims, which action was removed to federal court and consolidated with class and PAGA claims filed by another former Walmart employee, Alyssa Hernandez (*Hamilton et al. v. Wal-Mart Stores, Inc., et al.,* case No. 5:l7-cv-01415 AB (KKx) (*Hamilton I*)). Following the trial of several of their wage and hour claims, Hamilton and Hernandez obtained a jury verdict on a single class claim for failure to provide meal and rest periods as a result of workplace security screening checks. The statutory period at issue was from June 8, 2013, to August 21, 2018.[4]

On August 14, 2017, Hamilton filed her own PAGA action in San Bernardino Superior Court, *Hamilton v. Wal-Mart Stores, Inc., et al.* (Super. Ct. San Bernardino County, No. CIVDS1715485) (*Hamilton II*), "premised on similar wage-and-hour theories limited to the same warehouse in Chino,

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[4] Hamilton and Hernandez "obtained a verdict in their favor in the amount of over $6 million against [Walmart], for failure to provide meal periods on behalf of a certified meal period subclass consisting of all current and former non-exempt employees employed by Walmart in the State of California and who worked in a Walmart fulfillment center and who worked a shift in excess of six . . . hours during the period from June 8, 2013 to August 21, 2018 . . . . The jury found Walmart impeded or discouraged employees from leaving the facility for meal periods by requiring employees to undergo off-the-clock security checks upon leaving the facility."

Prior to trial, the federal court dismissed some of Hernandez's PAGA claims. (*Hamilton v. Wal-Mart Stores, Inc.* (9th Cir. 2022) 39 F.4th 575, 579–580.) The Ninth Circuit reversed the dismissal of the PAGA claims. (*Ibid.*)

[California]." Months later, "[o]n December 11, 2017, that court sustained a demurrer (plea in abatement) and ordered *Hamilton II* stayed."

On May 17, 2023, Flores, Waltz, and Walmart submitted a "Joint Stipulation to Amend Order Granting Preliminary Approval of Class Action and PAGA Settlement." The stipulation stated "the parties in the *Flores* and *Waltz* actions have amended their class action and PAGA settlement agreement ('agreement') and the class notice that was attached as exhibit A to the agreement to make it clear (as had been set forth in the preliminary approval motion) that the class release does not extend to the meal period claim that was the subject of the jury's verdict and the court's judgment in [*Hamilton I*]." On May 19, 2023, the trial court approved the parties' stipulation and ordered the amendment preliminarily approved.

IV.

THE MOTIONS TO INTERVENE

On May 26, 2023, Hamilton filed a motion to intervene in the now-consolidated instant action. Another former employee, Rosas, filed a "Notice of Joinder" with respect to that motion. Former employees Carr and L. Wicker filed a similar motion to intervene in the instant consolidated action the same day Hamilton filed her motion.

A. Hamilton's Motion to Intervene and Rosas's Notice of Joinder

Hamilton moved to intervene in the consolidated case in light of the wage and hour and PAGA actions she had pending in the federal court. In her motion to intervene, Hamilton explained: "This motion is made pursuant to . . . section 387 on the grounds the parties to this action have reached a settlement that encompasses a claim under [PAGA] pending in the San Bernardino Superior Court, which is premised, in part, upon claims for which [the Hamilton appellants] have obtained a verdict in their favor. Intervention

should be permitted where the interests of the Hamilton aggrieved employees are not fully represented by [Flores's and Waltz's] counsel in this action, and where the settlement will interfere with the district court's ability to fully adjudicate the PAGA claim before it, and will further undermine [Hamilton's] right to the collateral estoppel effect of their verdict."

Rosas, who filed a notice of joinder in Hamilton's motion, had "filed a PAGA action in state court on September 19, 2019, alleging wage-and-hour violations on theories consistent with *Hamilton I* and *Hamilton II*. The trial court judge sustained a demurrer [in that action] on February 20, 2020, and stayed the matter pending the disposition of *Hamilton I* and *Hamilton II*."

B. Carr and L. Wicker's Motion to Intervene

Carr and L. Wicker initially filed three class and PAGA actions in state court based on the allegation Walmart failed to pay final wages timely during a class period beginning on April 6, 2017 for the wage and hour class, and beginning on April 19, 2019, for the PAGA matter. The three matters were eventually consolidated, and in July 2021, Walmart successfully removed them to federal court. Carr and L. Wicker's motion for class certification was set for hearing on October 6, 2023.

In their motion to intervene in the instant consolidated action, Carr and L. Wicker asserted they sought a stay of the class action settlement reached between the parties on behalf of themselves and the putative class in their lawsuit then currently pending in federal court. They stated: "The *Flores* settlement overlaps the *Carr* class period entirely and, if approved, will eliminate the Carr claims."

V.

HAMILTON, CARR, AND L. WICKER FILE OPT-OUT NOTICES

On July 18, 2023, before the trial court ruled on the motions to intervene in the consolidated actions, counsel for Hamilton, Carr, and L. Wicker filed a "Notice of Opt-out" on their behalf in the instant consolidated action. Attached to the notice were four opt-out forms; Hamilton, Hernandez, Carr, and L. Wicker each signed one of those forms under the attestation: "I do not want to participate in the settlement."

VI.

OBJECTIONS TO THE PRELIMINARILY APPROVED SETTLEMENT AGREEMENT

On July 20, 2023, the Renteria appellants each filed objections to the amended preliminarily approved settlement of the consolidated Flores and Waltz actions.

A. Cabrera and Renteria's Objections

Cabrera, who worked for Walmart from November 2016 until July 2017, and Renteria, who worked for Walmart from August 2020 until April 2023, each signed a form stating their objection to the Flores settlement for the same four reasons. First, they asserted the "[s]ettlement is too low," particularly given Hamilton and Hernandez's success in *Hamilton I*. Second, they asserted the settlement was "too broad" and failed to get fair value for violations including for forced "'voluntary time off.'" Third, they argued Flores had a conflict of interest in that he was not "in the same boat" as all the workers implicated in the class action settlement. And fourth, they argued Flores "didn't fight hard" enough.

B. H. Wicker's Objection

H. Wicker, who started working for Walmart in November 2017 and was still so employed when he signed his objection on July 20, 2023, disputed the number of workweeks he was credited in the settlement and asserted he believed he was being discriminated against because of the workers compensation claim he had settled with Walmart.

C. Hamilton, Carr, and L. Wicker "Join" the Renteria Appellants' Objections

The Renteria appellants' objections are supported by a memorandum. That memorandum concludes with the statement: "Proposed Intervenors . . . Carr, [L.] Wicker and . . . Hamilton join these objectors' objections."

VII.

THE TRIAL COURT DENIES THE MOTIONS TO INTERVENE

On September 1, 2023, the trial court denied the motions to intervene in the instant consolidated action. The court explained that neither mandatory nor permissive intervention under section 387 applied. The court observed "it appears [the Hamilton appellants] lack a protectable interest. Indisputably, [they] have opted out of the instant settlement. In fact, . . . Carr and [L.] Wicker have objected to the settlement. [Citation.] Further, as to the PAGA matters, the real party at interest is the State of California, not [the Hamilton appellants]. [Citation.] Thus, it appears [the Hamilton appellants] have no protectable interest at issue." The court added: "[D]espite [the Hamilton appellants'] protests to the contrary, it appears patently obvious

that [their] end goal is either enlargement of the issues on settlement or scuttling it."

VIII.

ORDER AND JUDGMENT GRANTING FINAL APPROVAL OF THE SETTLEMENT OF THE CONSOLIDATED FLORES AND WALTZ ACTIONS

On September 21, 2023, Flores and Waltz filed a motion for final approval of the class action and PAGA settlement along with concomitant fees and costs. The trial court considered and overruled all objections to the settlement agreement and, on October 16, 2023, the court granted the motion. The court granted final approval to and certified the class for purposes of settlement as "all individuals who are or previously were employed by Walmart Inc. or its successors, affiliates, and subsidiaries, including without limitation Wal-Mart Associates, Inc., (collectively 'Walmart') in California who were classified as hourly nonexempt employees and who worked in distribution and/or fulfillment centers owned and operated by Walmart during the period of time from March 9, 2016 through January 7, 2023."

The trial court similarly found the term "'[a]ggrieved [e]mployees' means all individuals who are or previously were employed by Walmart . . . in California who were classified as hourly nonexempt employees and who worked in distribution and/or fulfillment center owned and operated by Walmart during the period of time from March 9, 2019 through January 7, 2023."

The trial court summarized the terms of the final settlement agreement as follows: "[Walmart] will pay a gross, non-reversionary settlement amount of $19,000,000.00, from which will be deducted (1) $6,333,333.00 for class counsel's attorneys' fees ([one-third] of the total); (2) costs of $37,410.13; (3) [Flores and Waltz's] enhancement fees of

$20,000.00 ($10,000 each); (4) claims administration fees of $105,000.00; and (5) PAGA penalties of $400,000.00 (of which $300,000.00, or 75 [percent], will go to the [Labor Workforce and Development Agency]). The parties estimate this will leave a wage-and-hour only net settlement amount of a non-reversionary $12,124,236.87. This amount would be split by the class of 32,696 employees in proportionate shares determined by [the] number of work weeks within the settlement class period. The average per employee would be $370.82. Fifty percent . . . of the net settlement payments would be considered wages with the remaining [50] percent . . . considered representative of penalties and interest. [Citation.] The PAGA aggrieved employees (at 15,384 employees) will receive, on average, $6.50. In return, settlement class members will release only the covered claims. The representative plaintiffs will also issue a so-called [Civil Code section] 1542 waiver as well."

In its order and judgment, the trial court stated that in approving the terms of the settlement agreement it found the agreement to be fair, adequate, and reasonable and directed the parties to effectuate the settlement agreement according to its terms. In addition, the court found (1) the settlement agreement had "been reached as the result of informed and non-collusive arm's-length negotiations"; (2) the parties had "conducted extensive investigation and research, and their attorneys were able to reasonably evaluate their respective positions"; and (3) the settlement "will avoid additional and potentially substantial litigation costs, as well as delay and risks if the parties were to continue to litigate the case."

The trial court also reviewed the monetary recovery "provided as part of the settlement and recognized the significant value accorded to class members." It confirmed the settlement agreement did not constitute any

admission by Walmart and its order did not constitute a "finding of the validity of any allegations of any wrongdoing" by Walmart.

The following month, Hamilton, Carr, and L. Wicker timely filed a notice of appeal challenging the order denying their motions to intervene.

IX.

MOTION TO VACATE THE JUDGMENT

The Hamilton appellants and the Renteria appellants jointly filed a motion to vacate the judgment under section 663, subdivision (a)(1) (the motion to vacate). In their motion, they argued the trial court's order and judgment were made on an incorrect and erroneous legal basis not consistent with or supported by the facts. Specifically, they argued that in its October 16, 2023, order, the trial court found the settlement to be fair, reasonable, and adequate but: (1) what the "settlement achieved was substantially under the lowest-end value of the claims as calculated by [Flores and Waltz]"; (2) "the number of workweeks included in the settlement increased between preliminary and final approval"; (3) "the parties failed to calculate the value of claims included in the settlement that are currently pending in other overlapping actions against [Walmart]"; (4) "the settlement notice failed to inform class members and aggrieved employees of the pendency of other overlapping actions against [Walmart] and, consequently, prevented class members from making a fully informed decision about whether to release the claims included in the settlement"; (5) "the facts indicate [Flores and Waltz] did not conduct adequate investigation into the value of the claim"; and (6) "the settlement provides no value for a portion of the PAGA release period."

On December 8, 2023, the trial court denied the motion to vacate. The court rejected the motion as to the Hamilton appellants on the ground they lacked standing to challenge the settlement agreement because they opted out from the class. The court also observed the Renteria appellants had simply reasserted arguments previously included in their prior objections to the settlement agreement which the court had considered and rejected.

On January 9, 2024, the Hamilton appellants and the Renteria appellants appealed from the order denying their motion to vacate the judgment.

The parties filed in this court a joint motion to consolidate the two appeals, which this court granted.

REQUEST FOR JUDICIAL NOTICE

Walmart filed a request for judicial notice of two records from the federal case *Carr et al. v. Walmart, Inc., et al.*, case No. 5:21-cv-01429-AB-KK: (1) the federal court's November 27, 2023, order denying the plaintiffs' motion for class certification; and (2) the court's civil minutes dated September 27, 2024, regarding then-pending motions for partial summary judgment heard on September 27, 2024. In addition, Walmart requests we take judicial notice of an October 8, 2024 status report filed in *Hamilton I*.

The Hamilton appellants and the Renteria appellants did not file an opposition to Walmart's request. Walmart's request for judicial notice is granted. (Evid. Code, §§ 452, subds. (d) & (h); 453, 459; Cal. Rules of Court, rules 8.54, 8.252.)[5]

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[5] Two days before oral argument in this case, Walmart filed a letter to (1) "apprise the Court of updates to the procedural posture of certain separate actions that appellants have referenced and relied on in this pending action as support for their positions on appeal," and (2) "request judicial notice because these updates bear on these consolidated appeals." Walmart added: "All of these updates occurred after Walmart filed its

DISCUSSION

I.

OVERVIEW OF PAGA

In *Turrieta, supra,* 16 Cal.5th 664, the California Supreme Court recently provided the following overview of PAGA:

"The Legislature enacted PAGA in 2003 to address a perceived 'shortage of government resources to pursue enforcement' of the Labor Code. [Citation.] . . . Thus, 'the Legislature's purpose in enacting the PAGA was to augment' what the Legislature then viewed as a 'limited enforcement capability' of the [Labor Workforce and Development Agency] 'by empowering employees to enforce the Labor Code as representatives of the Agency.' [Citation.]

"To achieve this purpose, PAGA, as it applies in this case, specifies that civil penalties recoverable by the [Labor Workforce and Development Agency] 'may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to' specified procedures. [Citation.] This provision 'empowers' aggrieved employees to sue for 'civil penalties previously recoverable only by the Labor Commissioner.' [Citation.]

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respondents' brief on October 17, 2024." Even assuming Walmart seeks judicial notice of a proper subject of judicial notice on appeal, we do not take judicial notice of the matters identified in Walmart's letter because Walmart failed to file a motion seeking judicial notice as required by California Rules of Court, rule 8.252(a). (See *United Teachers of Los Angeles v. Los Angeles United School Dist.* (2012) 54 Cal.4th 504, 528.)

In the letter, Walmart also directs our attention to a footnote in the respondents' reply brief stating that Rosas "has elected not to further pursue this appeal." To date, however, neither Rosas, nor any other appellant, has filed a request to dismiss the appeals in this matter. (See Cal. Rules of Court, rule 8.244(a)(1).)

For purposes of standing to bring a PAGA action, an 'aggrieved employee' is 'any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.' [Citation.] As here relevant, 'civil penalties recovered by aggrieved employees [are] distributed as follows: 75 percent to the [Labor Workforce and Development Agency] . . . and 25 percent to the aggrieved employees.'" (*Turrieta, supra*, 16 Cal.5th at p. 681, fn. omitted.)[6]

In *Turrieta*, the Supreme Court described "several important 'legal characteristics' of PAGA actions" as follows:

"'"[E]very PAGA action . . . is a representative action on behalf of the state."' [Citation.] 'It is a dispute between an employer and the state,' in which the state alleges 'through its agents'—i.e., aggrieved employees—'that the employer has violated the Labor Code.' [Citation.] It 'is an enforcement action between the [Labor Workforce and Development Agency] and the employer, with the PAGA plaintiff acting on behalf of the government.' [Citation.] As such, a PAGA action 'functions as a substitute for an action brought by the government itself.' [Citation.]

"An aggrieved employee who files a representative PAGA action is asserting a 'claim[] belonging to a government agency' [citation] and 'represents the same legal right and interest as state labor law enforcement

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[6] The Supreme Court stated: "After oral argument in this case, the Legislature enacted extensive amendments to the PAGA statutes. [Citations.] The amendments are not at issue and no party suggests they should apply here. Our discussion addresses versions of the PAGA statutes in effect throughout the litigation of this case, and we express no opinion on operation of the newly amended provisions." (*Turrieta, supra*, 16 Cal.5th at p. 681, fn. 3.) As in *Turrieta*, our discussion addresses versions of PAGA statutes that were in effect throughout the litigation of this case. Subsequent amendments to such statutes are not at issue in these appeals and no party suggests otherwise.

agencies—namely, recovery of civil penalties that otherwise would have been assessed and collected by' the [Labor Workforce and Development Agency] [citation]. Thus, the employee-plaintiff sues 'as the state's authorized representative' [citation]—its "'proxy or agent'" [citation]. A PAGA plaintiff's 'status as "the proxy or agent" of the state [citation] is not merely semantic; it reflects a PAGA litigant's substantive role in enforcing [California's] labor laws on behalf of state law enforcement agencies.' [Citation.] 'The government entity on whose behalf the plaintiff files suit is always the real party in interest in the suit.' [Citation.] These legal characteristics make '[a] PAGA representative action . . . a type of qui tam action.'" (*Turrieta, supra*, 16 Cal.5th at pp. 681–682, italics omitted.)

The *Turrieta* court described the state of the law regarding multiple overlapping PAGA actions as follows: "As to whether PAGA allows multiple, overlapping representative actions filed by different aggrieved employees against the same employer based on the same facts and theories, one federal court observed in 2016 that PAGA's "'express terms'" do not address the question. [Citation.] Citing the federal court's observation, a California appellate court stated in *Julian v. Glenair, Inc.* (2017) 17 Cal.App.5th 853, 866, that 'nothing in the PAGA statutory scheme forecloses separate but similar actions by different employees against the same employer.' Based on *Julian*, the Court of Appeal in this case held that '[o]verlapping PAGA actions may be brought by different employees who allege the same violations and use the same theories.' [Citation.] The parties do not contest this point and we assume, for purposes of deciding this case, that overlapping PAGA actions are permissible." (*Turrieta, supra*, 16 Cal.5th at pp. 682–683.)

The court added: "Several PAGA provisions expressly provide for the [Labor Workforce and Development Agency]'s involvement in an aggrieved employee's pending PAGA action. For cases filed on or after July 1, 2016, a PAGA plaintiff 'shall, within 10 days following commencement of a civil [PAGA] action,' 'provide the [Labor Workforce and Development Agency] with a file-stamped copy of the complaint.' [Citation.] If a PAGA plaintiff and the defendant agree to settle the action, then '[t]he proposed settlement [must] be submitted to the [Labor Workforce and Development Agency] at the same time that it is submitted to the court' for review and approval. [Citation.] *As to involvement in a PAGA plaintiff's pending PAGA action by anyone else, PAGA, under the provisions applicable here, is silent*." (*Turrieta, supra*, 16 Cal.5th at p. 683, italics added.)

II.

THE TRIAL COURT PROPERLY DENIED THE MOTIONS TO INTERVENE

The Hamilton appellants argue the trial court erred by denying their motion to intervene in the instant consolidated action. They argue they were entitled to intervene under section 387, subdivision (d)(1)(B) which provides, inter alia, the court "shall, upon timely application, permit a nonparty to intervene in the action or proceeding if" the proposed intervenor "claims an interest relating to the property or transaction that is the subject of the action and that person is so situated that the disposition of the action may impair or impede that person's ability to protect that interest, unless that person's interest is adequately represented by one or more of the existing parties." They argue the court further erred by denying their motion as brought on the grounds of so-called "permissive intervention" under subdivision (d)(2) of section 387, which provides: "The court may, upon timely application, permit a nonparty to intervene in the action or proceeding if the

person has an interest in the matter in litigation, or in the success of either of the parties, or an interest against both."

A. Overview of Turrieta

After the Hamilton appellants filed their opening brief and before Flores, Waltz, and Walmart filed their respondent's briefs, the California Supreme Court issued its decision in *Turrieta, supra*, 16 Cal.5th 664, which squarely addressed what it described as "a common scenario in PAGA litigation: [in which] multiple persons claiming to be an 'aggrieved employee' within the meaning of PAGA file separate and independent lawsuits seeking recovery of civil penalties from the same employer for the same alleged Labor Code violations." (*Id.* at p. 676.) In *Turrieta*, three drivers each filed a separate action against Lyft, Inc. in which they sought civil penalties under PAGA for Lyft's failure to pay minimum wage, overtime, and business expense reimbursements. (*Ibid.*) After one of the drivers signed an agreement with Lyft, settling his action and scheduling a settlement approval hearing, the other two drivers filed separate motions to intervene in that action and submitted objections to the settlement. (*Ibid.*) The trial court denied the motions, approved the settlement, and denied the other two drivers' motions to vacate the judgment. (*Ibid.*) The appellate court affirmed, holding the trial court properly denied the motions to intervene. (*Ibid.*)

The California Supreme Court agreed with the appellate court that the trial court properly denied the intervention motions and further agreed the two drivers lacked standing to make a motion to vacate the judgment or challenge the judgment on appeal. (*Turrieta, supra*, 16 Cal.5th at p. 676.) The court held: "Although a PAGA plaintiff may use the ordinary tools of civil litigation that are consistent with the statutory authorization to commence an action, such as taking discovery, filing motions, and attending

trial, we conclude . . . the authority [the proposed intervenor] seeks in this case—to intervene in the ongoing PAGA action of another plaintiff asserting overlapping claims, to require a court to consider objections to a proposed settlement in that overlapping action, and to move to vacate the judgment in that action—would be inconsistent with the scheme the Legislature enacted. This conclusion best comports with the relevant provisions of PAGA as read in their statutory context, in light of PAGA's legislative history, and in consideration of the consequences that would follow from adopting [one of the proposed intervenor's] contrary interpretation." (*Id.* at pp. 676–677.)

In reaching its conclusion, the Supreme Court noted nothing in PAGA's statutory language expressly allows a PAGA plaintiff to intervene in overlapping actions. (*Turrieta, supra*, 16 Cal.5th at pp. 676–677.) The court further noted, unlike the requirement that absent class members be given notice to satisfy due process in class actions, PAGA only requires the Labor Workforce and Development Agency (LWDA) to review settlements and the trial court to ensure any settlement is fair. In fact, the court explained, PAGA only requires notice be given to the LWDA of a complaint, proposed settlement, or judgment, and does not mention, much less require, notice be given to other PAGA plaintiffs or anyone else. (*Id.* at p. 692, fn. 12 ["Insofar as PAGA does not require that notice of a settlement be given to other aggrieved employees, a PAGA action is different from a class action"].)

The Supreme Court also stated allowing such intervention "clearly implicates concerns about curtailing PAGA litigation by making it more difficult," and "would 'create[] a situation where' a single 'real party in interest'—the state—is represented in a single action by multiple proxies or agents with multiple 'sets of lawyers,' all 'purporting to advocate for the same

client' and pursuing the state's single claim for civil penalties based on the same Labor Code violations." (*Turrieta, supra*, 16 Cal.5th at p. 699.)

The Supreme Court thus concluded "the intervention power [the proposed intervening employee] claims—which he bases on an alleged right as a state proxy to assert the state's right to intervene—is inconsistent with the scheme the Legislature enacted and, for that reason, outside the scope of his authority to commence and prosecute a PAGA action on the state's behalf. Thus, he cannot establish a cognizable interest to support intervention under . . . section 387 based on his asserted authority, as the state's proxy or agent, to assert any state right to intervene." (*Turrieta, supra*, 16 Cal.5th at p. 705.)

B. The Hamilton Appellants' Argument They Can Intervene Based on Their Personal Interest Is Without Merit

In their reply brief, the Hamilton appellants argue *Turrieta* is distinguishable because, unlike the attempted intervenor in that case, the Hamilton appellants "have not disclaimed their personal interest in their individual capacity." Their argument continues: "[T]he interest claimed by Hamilton, Carr, and [L.] Wicker is not only the state interest that [*Turrieta*] invalidated, but *also* an interest held by all aggrieved employees in the 'incentive' portion of the penalties. This is because PAGA allocates 25 [percent] of recovered penalties to aggrieved employees as an incentive to bring public enforcement charges [citation]. Although not a substantive right or standalone claim, this is undisputably a monetary 'interest' in the claim conferred by statute, which is naturally accompanied by a corollary interest in controlling and negotiating that monetary interest. This personal interest claimed by the proposed intervenors is consistent with the divisible interest in a PAGA claim held by every aggrieved employee . . . . *Turrieta* . . . does not address the personal interest claimed by proposed intervenors on behalf of

themselves and other aggrieved employees, and does not dispose of the issues raised herein."[7]

The Hamilton appellants also argue as members of the public, "[t]hey represent the public interest, and hold a personal interest in the furtherance of the same public interest: penalizing Walmart for violating California labor laws, and deterring similar future conduct. They personally hold this interest because Walmart's conduct has affected them directly."

Similar arguments were recently addressed and rejected in *Moniz v. Adecco USA, Inc.* (2025) 109 Cal.App.5th 317, 331–332 (*Moniz*), in which the appellate court observed "the personal interest [the PAGA plaintiff] asserts arise by virtue of PAGA itself and are mostly derivative of her representation of the state's interest as a PAGA plaintiff, so those interests are subject to the same analysis and lead to the same outcome as in *Turrieta*." The *Moniz* court explained:

"PAGA is fundamentally a law enforcement action, a form of qui tam suit in which a private plaintiff represents the state in the enforcement of various statutes. [Citations.] The civil penalties for violations of such statutes flow to the state, except that PAGA diverts a portion of them to the aggrieved employees. [Citation.] . . . [M]any of the Labor Code sections have no private right of action [citation], so PAGA provides the only means by which aggrieved employees can collect anything for violations of such statutes. PAGA is "'simply a procedural statute"' that does not create

[7] The Hamilton appellants' argument is based on a footnote in *Turrieta, supra*, 16 Cal.5th 664, noting the proposed intervenor asserted he did not claim a personal interest in the instant action and only sought to intervene as an agent of the state. In light of the position taken by the proposed intervenor, the Supreme Court stated, "[W]e express no opinion on whether a PAGA plaintiff has a personal interest that may satisfy the 'interest' requirement for intervention under . . . section 387." (*Id.* at p. 684, fn. 6.)

property rights, so a PAGA plaintiff cannot assign a claim for statutory penalties. [Citations.]

"There is no substantive difference, then, between saying that a PAGA plaintiff has an interest to support intervention in an overlapping PAGA suit by virtue of being the state's proxy in a suit to recover 75 percent of the civil penalties in the overlapping action and saying that the plaintiff has an interest to support intervention by virtue of an interest in 25 percent of the civil penalties in the overlapping suit, a service award (assuming for the sake of argument that a prevailing PAGA plaintiff can collect such an award), entitlement to costs and attorney's fees, or protection from an opposing cost award. Either way, the same class of people will have an interest arising from the same law. Finding that [the litigant in *Moniz*] has standing based on the interests she here asserts would entitle every PAGA plaintiff in an overlapping suit to intervene or move to vacate the judgment—which is exactly the opposite of what *Turrieta* concluded based on the PAGA plaintiff's status as representative of the state's interest. If a PAGA plaintiff could obtain standing to intervene or move to vacate in an overlapping suit merely by engaging in the semantic exercise of relabeling his or her interest arising from the statute as a private one rather than one as the state's proxy, *Turrieta*'s holding precluding intervention or vacatur solely by virtue of status as an overlapping PAGA plaintiff would have no effect. (Cf. *Turrieta, supra*, 16 Cal.5th at p. 682 ['A PAGA plaintiff's "status as 'the proxy or agent' of the state [citation] is not merely semantic; it reflects a PAGA litigant's substantive role in enforcing [California's] labor laws on behalf of state law enforcement agencies"'].)" (*Moniz, supra*, 109 Cal.App.5th at p. 332.)

The *Moniz* court further observed that "*Turrieta*'s practical considerations relating to control of litigation by multiple parties and lawyers if a PAGA plaintiff could intervene . . . on behalf of the state apply equally to vacatur in a private capacity." (*Moniz, supra*, 109 Cal.App.5th at p. 333.)

We agree with *Moniz's* analysis and similarly conclude that while the argument before us "falls within *Turrieta*'s caveat regarding personal interests, that caveat does not require or permit us to ignore *Turrieta*'s reasoning." (*Moniz, supra*, 109 Cal.App.5th at p. 335.) Furthermore, like the PAGA plaintiff in *Moniz*, the Hamilton appellants have "'failed to offer any arguments to overcome the implications of [*Turrieta*'s] reasoning on this question.'" (*Ibid*.)

The trial court therefore did not err in denying the motions to intervene.[8] Because the Hamilton appellants lacked standing to seek intervention, their appeal from the order denying their motions is dismissed.

III.

DENIAL OF THE MOTION TO VACATE THE JUDGMENT

The Hamilton appellants and the Renteria appellants contend the trial court erred by denying their jointly filed motion to vacate the judgment under section 663. They brought their motion on the grounds there was an "[i]ncorrect or erroneous legal basis for the decision, not consistent with or not supported by the facts." (§ 663.) We review orders denying a

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[8] In denying the motions to intervene, the trial court observed "as a technical matter, . . . Rosas merely seeks *joinder* to . . . Hamilton's motion. . . . Hamilton's motion does not seek intervention for Rosas. Thus, . . . Rosas apparently offers no mechanism for her own intervention into this case." We do not need to decide whether Rosas's notice of joinder was sufficient to request her own intervention in the instant action because, assuming it was sufficient, for all the reasons explained *ante*, such intervention was not available to her under *Turrieta*.

motion to vacate under section 663 for an abuse of discretion. (*Hearn v. Howard* (2009) 177 Cal.App.4th 1193, 1207.)

A. Hamilton, Carr, and L. Wicker Opted Out of Participating in the Settlement of the Class Claims and, Pursuant to Turrieta *and* Moniz*, No Appellant Has Standing to Challenge the PAGA Portion of the Judgment*

The Hamilton appellants joined the Renteria appellants in moving to vacate the judgment on the ground the trial court's order finding the settlement was fair, reasonable, and adequate was made on an incorrect or erroneous legal basis and was not consistent with or supported by the facts. In their appeal, they argued the court lacked sufficient information to evaluate the value of the claims or the release, the court approved an impermissible PAGA release, the value of the jury verdict in *Hamilton I* should have been assessed, and the notice of settlement was deficient.

To the extent the motion challenged the portion of the settlement agreement resolving the class wage and hour claims, the Hamilton appellants formally opted out from participating in the settlement of such claims (except for Rosas who did not opt out from the settlement) and thus have no standing to challenge the judgment on that basis. (See *Edwards v. Heartland Payment Systems, Inc.* (2018) 29 Cal.App.5th 725, 733 [If unhappy with the settlement, class members can "opt out and fully preserve their causes of action" but if class members do not want to opt out, "they may object to the class settlement and point out why they believe it is unfair or inadequate"].)[9]

[9] Paragraph 8.5(d) of the settlement agreement explained: "Every class member who submits a valid and timely request for exclusion is a non-participating class member and shall not receive an individual class payment or have the right to object to the class action components of the settlement. . . . If a class member submits both a request for exclusion and an objection, only the request for exclusion will be accepted and the objection will be void." Paragraph 8.7(a) further explains: "Only participating class members may object to the class action components of the settlement and/or this Agreement, including contesting the fairness of the settlement, and/or

The Hamilton appellants are also without standing to challenge the judgment with respect to the portions of the settlement agreement which resolved the PAGA claim. *Turrietta* establishes that "for essentially the same reasons" a plaintiff in an overlapping PAGA lawsuit does not have authority as the state's deputized representative in their own case to intervene in another PAGA case, such a plaintiff does not have authority to move to vacate a settlement judgment and then appeal that denial. (*Turrietta, supra*, 16 Cal.5th at p. 711.) In dismissing the appeal of a similarly situated plaintiff from an order denying a motion to vacate the judgment, the *Moniz* court explained: "PAGA did not expressly provide such authority, and 'concluding that this power is necessarily implied in a PAGA plaintiff's authority to commence and prosecute a PAGA action on the state's behalf would be inconsistent with the statutory scheme as a whole,' given that the Legislature provided only for oversight by the courts and LWDA. [Citation.] 'The omission of any mention or suggestion of oversight by anyone else is significant given the unanswered questions that would arise from' allowing a plaintiff in an overlapping PAGA suit to move to vacate a judgment, 'which could leave courts faced with multiple motions to vacate and multiple appeals in a single PAGA action, filed by multiple PAGA plaintiffs and their counsel, all purporting to represent the interests of the same client: the state.' [Citation.] 'Nothing in PAGA's text, the statutory scheme, or the legislative history suggests the Legislature understood or intended an aggrieved employee's authority to commence and prosecute a PAGA action on the state's behalf to include the power to move to vacate a judgment obtained by another aggrieved employee—representing the same state interest—after a proposed

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amounts requested for the class counsel fees payment, class counsel litigation expenses payment and/or class representative service payment."

settlement has been submitted for review to both the trial court and the LWDA, and the court has determined that the proposed settlement "is fair to those affected.'" [Citation] Nor did . . . section 663, which allows 'the party aggrieved' by a judgment to move to vacate it, say anything about 'the authority of someone other than "the party aggrieved" to file such a motion on the aggrieved party's behalf.'" (*Moniz, supra*, 109 Cal.App.5th at p. 329, quoting *Turrietta, supra*, 16 Cal.5th at pp. 711–712.)

For the same reasons we rejected the argument the Hamilton appellants had the right to intervene to vindicate their *personal* interests as opposed to their interest as the proxy of the state, we reject the argument in the reply brief the Hamilton appellants had standing to move to vacate the judgment based on their personal interests. (See *Moniz, supra*, 109 Cal.App.5th at p. 334 ["If there is no indication the Legislature intended to allow the relatively few named plaintiffs in overlapping PAGA suits to move for vacatur, there is even less indication that the Legislature intended to allow every aggrieved employee affected by either suit to do so"].)

We therefore dismiss the Hamilton appellants' appeal from the order denying their motion to vacate the judgment.

B. The Renteria Appellants Have Not Shown the Trial Court Abused Its Discretion in Approving the Settlement Agreement

The Renteria appellants argue the trial court erred by denying their motion to vacate the judgment because their objections to the settlement were meritorious and "there [was] no justification for the myriad [of] errors in the settlement approved by the trial court." In their opening brief, they argue: (1) the court erred by approving a "legally-impermissible PAGA release for $0.00, and in overruling the objections [by the Renteria appellants]"; (2) the court lacked sufficient information to evaluate the value of the claims or release; (3) the value of "the *Hamilton I* jury verdict carries

value that should have been assessed even after the *Hamilton I* claims were excised from the settlement"; and (4) the notice of settlement to class members was deficient.

For all the reasons discussed *ante*, the Renteria appellants do not have standing to move to vacate the judgment based on their objection to the PAGA release of the settlement agreement. (See *Turrieta, supra*, 16 Cal.5th at pp. 710–712, 716.) To the extent their appeal from the court's denial of the motion to vacate the judgment is based on that objection, it is dismissed. We therefore turn to address their challenges to the settlement agreement's resolution of the class claims and, for the reasons we explain, conclude they have failed to demonstrate any abuse of discretion by the trial court in approving the settlement.

First, in their opening brief, the Renteria appellants argue that, at the time of the trial court's preliminary approval of the settlement agreement, "the low-end value of the claims included in the Flores settlement was $17.5 million" but by final approval "the Flores parties discovered that the number of included workweeks had doubled." The Renteria appellants argue such an increase problematically signals that Flores and Waltz had conducted an inadequate investigation in which they "missed half of all included workweeks" and further "tends to indicate the actual value of the settled claims is something around $35 million." They argue the record does not provide justification for "such a significant discount" and "[a]t the very least, the trial court should have required [Flores and Waltz]" to explain the discount.

As explained in detail in Walmart's respondent's brief, the record shows, however, the number of workweeks did not double. Instead, while the number of workweeks included in the final settlement agreement had

increased, that increase was within the preliminary settlement valuation's disclosed range accounting for such an increase as data was updated. Disputes regarding workweeks (there were five including H. Wicker's objection) were submitted to the class administrator and the trial court determined the process for resolving such disputes was fair and adequate. The record shows the class administrator had at one point made a mistake regarding the calculation of workweeks, but that mistake was corrected and communicated in a class notice postcard with the corrected calculation of workweeks. In their reply brief, the Renteria appellants do not address their argument, with relevant record citations, regarding the final settlement's increased number of workweeks, much less respond to Walmart's explanation. We find no error.

Second, in overruling the Renteria appellants' objection that the value of the *Hamilton I* jury verdict was insufficiently assessed in the settlement agreement, the trial court explained: "In [*Hamilton I*], a jury returned a verdict for the certified meal class of $6 million. The class was those employed at the Chino facility between June 8, 2013, and August 21, 2018. The meal violation claim was predicated upon failure to provide code-compliant meals because of the security screen procedure at that facility, which is part of the theory here. [Citation.] Although there is an overlap in the class periods and theory, . . . Flores[,] Waltz[,] and . . . Walmart expressly held the release in this settlement does not 'extend to the meal period claims that are the subject of the jury's verdict and the Court's judgment' in the *Hamilton* [*I*] litigation. [Citation.] Objectors make no showing of how a class of one facility on a narrow issue would have issue preclusion for any period after August 21, 2018, or for different facilities. Objectors do not explain why a jury finding for denied meal periods at one facility must lead to the

conclusion that the settlement here—which covers multiple facilities under several theories of liability— is somehow inadequately low."

We agree with the trial court's reasoning overruling the Renteria appellants' objection on this point. We reject their argument the jury verdict in *Hamilton I,* that was carved out from the instant settlement agreement, has any issue or claim preclusive effect on the value of meal period violations that are included in the final approved settlement agreement as they necessarily involve periods of time and/or facilities that were not resolved by the *Hamilton I* jury verdict. We also reject the argument the settlement agreement failed to assess "the PAGA penalty exposure" for the violations found by the jury in *Hamilton I*, as there is no standing to appeal from the judgment to challenge the PAGA portion of the settlement agreement (see *Turrieta, supra*, 16 Cal.5th at pp. 710-712, 716).

Finally, the trial court did not abuse its discretion in overruling the Renteria appellants' objection to the sufficiency of the settlement notice. In its order granting final approval of the settlement agreement, the court explained:

"[A]s to objections that the notice is somehow deficient because it fails to identify other filed wage-and-hour cases, a settlement notice is to 'fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with [the] proceedings.' [Citation.] The notice needs to be neutral, meaning it can express no opinion on the merits of the settlement. [Citation.] Giving them options on how a member can respond to the notice does not equate to informing the members of all other litigations existing against the defendant for similar theories of liability. Although the parties are free to include other

cases in the notice, there is no requirement such that failing to do so results in *per se* inadequate or unfair notification of settlement terms and options.

"Notably, in *Trotsky v. Los Angeles Fed. Sav. & Loan Assn*[.] (1975) 48 Cal.App.3d 134, 151–152, disapproved on other grounds in *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260, 269–275, [footnote 4], the Court of Appeal found the lack of the settlement notice disclosing another litigation was problematic because it concerned a matter that was not part of the settlement. Thus, the court reasoned, the class members may have wanted that information in order to determine whether to object or opt-out. Here, however, there is no demonstration that other proceedings against . . . Walmart are highly relevant on a class member's determination whether to opt-out, object, or accept the settlement. Based on what is before the court, it appears the other cases simply concern the same alleged bases of liability.

"The court does not find a basis in the objections to conclude that the settlement is unfair, unreasonable, or inadequate. Thus, the objections are overruled."

In their opening brief, the Renteria appellants argue the settlement notice incorrectly states class members could opt out of the settlement and preserve their right to personally and individually pursue wage claims against Walmart when the claims of some putative class members might be time-barred. But as pointed out by the trial court in its order, the class settlement notice must remain neutral and here, the notice accurately states that a class member may opt out to *pursue* claims individually; it does not weigh in on the viability or relative merit of such claims. The Renteria appellants do not cite any legal authority suggesting the

notice should include a warning regarding the possibility claims individually pursued might be time-barred or otherwise unviable.

We also reject the Renteria appellants' argument the trial court abused its discretion in failing to find the settlement notice deficient because it did not "identify the existence of other relevant cases, including *Hamilton I*[,] . . . , *Hamilton II*, *Carr*, and *Rosas*." The Renteria appellants cite no legal authority supporting their argument such settlement notices are required to do so.

Finally, the Renteria appellants argue the trial court abused its discretion in failing to find the settlement notice deficient because it "failed to inform persons who worked as contractors that although they would release claims for the time spent working as contractors, those workweeks were not valued in the settlement and did not count toward each person's settlement share." But as pointed out in Walmart's respondent's brief, the settlement agreement's release of claims is solely made by *employees*, defined at paragraph 1.5 as "individuals who are or previously were employed by Walmart" and who were "classified as hourly nonexempt employees and who worked in distribution and/or fulfillment centers owned and operated by Walmart" during the class period. Neither the settlement agreement nor the class settlement notice mentions anything about claims by employees of third parties. The Renteria appellants have therefore failed to show the court abused its discretion by finding the class settlement notice sufficient.

DISPOSITION

The appeal from the order denying the motions for intervention is dismissed. The Hamilton appellants' appeal from the order denying the motion to vacate the judgment is dismissed. To the extent the Renteria appellants' appeal from the trial court's denial of the motion to vacate the judgment is based on the PAGA release of the settlement agreement, it is dismissed. The order denying the Renteria appellants' motion to vacate the judgment is otherwise affirmed. Respondents to recover costs on appeal.

MOTOIKE, ACTING P. J.

WE CONCUR:

MOORE, J.

DELANEY, J.