

Larry W. Lee (State Bar No. 228175)
Kristen M. Agnew (State Bar No. 247656)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder (State Bar No. 170131)
Polaris Law Group
501 San Benito Street, Suite 200 Hollister,
CA 95023
(831) 531-4214
(831) 634-0333 facsimile

Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

ADEWUNMI OJO, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

PINNACLE LIGHT INDUSTRIAL, LLC;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2021-01201515-CU-OE-CXC

NOTICE OF ORDER

Complaint Filed: May 19, 2021
FAC Filed: July 16, 2021
Trial Date: TBD

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on August 9, 2024, the Court held a hearing on Plaintiff
3 Adewunmi Ojo's ("Plaintiff") Motion to Approve the Second Amended Joint Stipulation of
4 Settlement and Release Under the Private Attorneys General Act (the "Motion"). Attached
5 herewith as Exhibit A is a true and correct copy of the Court's tentative. The Court adopted the
6 tentative as the final order, with the following modifications: (1) the Court awarded attorneys' fees
7 in the amount of \$15,000; (2) Paragraph 13 of Proposed Order must state that Court awarded
8 attorneys' fees of \$15,000.00; (3) Paragraph 16 of Proposed Order must be amended to reflect
9 \$5,000.00 increase in PAGA Penalties Fund and the resulting increases in the amount of penalties
10 paid to the LWDA and the amount distributed to the Aggrieved Employee; (4) Notice to Aggrieved
11 Employees should be amended to state that attorneys' fees award is \$15,000.00; and (5)
12 \$39,321.02 remains to be distributed as provided under PAGA, which shall be allocated as (a)
13 \$29,490.76 (75%) to the LWDA; and (b) \$9,830.26 to Aggrieved Employees. Counsel for Plaintiff
14 was order to give notice.

15
16
17 DATED: August 14, 2024

DIVERSITY LAW GROUP, P.C.
POLARIS LAW GROUP

18
19 By: _____

Larry W. Lee
Kristen M. Agnew
Nicholas Rosenthal
Attorneys for Plaintiff and the Class

EXHIBIT A

CIVIL COMPLEX CENTER

DEPARTMENT CX103

Judge Lon F. Hurwitz

Procedural guidelines for several types of motions and dismissals handled regularly in this department are set forth here. The guidelines appear after the Tentative Rulings.

TENTATIVE RULINGS

Date: August 9, 2024

Time: 1:30PM

The Court will hear oral argument on all matters at the time noticed for the hearing. If you would prefer to submit the matter on your papers without oral argument, please advise the clerk by emailing her as soon as possible. The email should be directed to CX103@occourts.org. When sending emails to the department, make sure to CC ALL SIDES as to avoid any sense of ex parte communication. The Court will not entertain a request for continuance nor filing of further documents once the ruling has been posted.

If appearing **remotely** on the date of the hearing, log into ZOOM through the following link and follow the prompts:

<https://acikiosk.azurewebsites.us/advisement?dept=CX103>

OTHER INFORMATION ABOUT THIS DEPARTMENT

HEARING DATES/RESERVATIONS: Except for Summary Judgment and Adjudication Motions, **no reservations are required for Law and Motion matters.** Call the Clerk to reserve a date for a Summary Judgment or Adjudication Motion. Regarding all other motions, the parties are to include a hearing date (Friday at 1:30PM) in their motion papers. The date initially assigned might later be continued by the Court if the assigned date becomes unavailable for reasons related to, among other things, calendar congestion.

COURT REPORTERS AND TRANSCRIPTS: Court reporters are not available in this department for *any* proceedings. Please consult the Court's website at www.occourts.org concerning arrangements for court reporters. If a transcript of the proceedings is ordered by *any* party, that party must ensure that the Court receives an electronic copy by email as mentioned above.

SUBMISSION ON THE TENTATIVE

If a tentative ruling is posted and **ALL** counsel intend to submit on the tentative without oral argument, please advise the clerk by emailing the department at CX103@occourts.org as soon as possible. When sending emails to the department, make sure to **CC ALL SIDES** as to avoid any sense of ex parte communication. If all sides submit on the tentative ruling and so advise the court, the tentative ruling shall become

the court's final ruling and the prevailing party shall give Notice of Ruling. If there is no submission or appearance by either party, the court will determine whether the matter is taken off calendar or will become the final ruling.

ORDERS

The court's minute order will constitute the order of the court and no further proposed orders must be submitted to the court **unless** the court or the law specifically requires otherwise. **Where an order *is* specifically required by the court** or by law, the parties are required to do so in accordance with California Rules of Court, rule 3.1312(c) (1) and (2).

BOOKMARKS

Bookmarking of exhibits to motions and supporting declarations - **The court requires strict compliance with CRC, rule 3.1110 (f) (4)** which requires electronic exhibits to include electronic bookmarks with the links to the first page of each exhibit, and with bookmarked titles that identify the exhibit number or letter and briefly describe the exhibit. CRC, rule 3.1110 (f) (4).

The court may continue a motion that does not comply with rule 3.1110 (f) (4) and require the parties to comply with that rule before resetting the hearing.

#11	Ojo vs. Pinnacle Light Industrial, LLC 2021-01201515	Motion-Other (TO APPROVE THE SECOND AMENDED JOINT STIPULATION OF SETTLEMENT AND RELEASE UNDER THE PRIVATE ATTORNEYS GENERAL ACT) SUMMARY OF SETTLEMENT AND SETTLEMENT ISSUES: The fully executed Second Amended Joint Stipulation of Settlement and Release Under the Private Attorneys General Act (“Second Amended Agreement”) is attached as Exhibit 3 to the Declaration of Kristen Agnew (“Agnew Decl.”). (ROA 144.) Red-lined versions of the previous iterations of the Settlement Agreement have also been provided. Amendments to Operative Complaint: Parties to file joint request for dismissal, without prejudice, of class allegations in the First Amended Complaint, and Plaintiff will file Second Amended Complaint in connection with the settlement. (2nd Agmt., Secs. C.1., C.2.; Exh. B.) Aggrieved Employee Definition: All current and former employees of Defendant in the State of California who were paid wages at any time from May 13, 2020, through October 31, 2021. (2nd Agmt., Sec. B.2.) Number of Aggrieved Employees: Estimated 24 employees included in amended definition. Previously, there were an estimated 36 employees. (Agnew Decl., ¶ 32.) PAGA Period: Modified to May 13, 2020, through October 31, 2021. Previously, was May 13, 2020, through July 31, 2022. New October 31, 2021 end date is significant because Defendant modified its payroll policies prior to this date. (Agnew Decl., ¶ 30.)
-------------------	--	---

Gross Settlement Amount (“GSA”): \$60,000.00

Disbursements include:

\$ 20,000.00 Attorneys’ fees (up to)

\$ 5,000.00 Litigation costs (up to)

\$ 1,750.00 Administration costs

\$ 2,000.00 Enhancement

Escalator Clause: GSA based on Defendant’s estimate of a maximum of 875 pay periods during PAGA Period. If actual number of pay periods is more than 875, GSA will increase in proportion to the increase in the total number of pay periods. (2nd Agmt., Sec. D.2.)

PAGA Penalties Fund: Estimated at \$34,321.02. (Agnew Decl., ¶ 43.) Defined as balance of GSA after attorneys’ fees, litigation costs, administration costs, and enhancement are paid. (2nd Agmt., Sec. B.10.) 75%, or approx. \$25,740.77, to be paid to the LWDA, and 25%, or approx. \$8,580.25, to be paid to the Aggrieved Employees. (Agnew Decl., ¶¶ 43, 44; 2nd Agmt., Sec. D.4.)

Payments to Aggrieved Employees: Pro rata based on number of pay periods in which Aggrieved Employee received payment of wages or expense reimbursements during PAGA Period. Payment allocated as 100% penalties, and Defendant does not have reversionary right to any portion of Net PAGA Payment. (2nd Agmt., Secs. D.5., D.6.) Check cashing period is 180 days after mailing. Funds from uncashed checks will be remitted to cy pres recipient, Legal Aid at Work. (Sec. E.4.)

Valuation of Claims: Approx. \$68.57 per pay period (\$60,000 ÷ 875 pay periods). Maximum liability based on \$100 penalty

per pay periods = \$87,500.00. If penalties “stacked”, potential liability of \$175,000.00 (\$87,500 for § 204 violations, and \$87,500 for § 2802 violations.) Discounted for merits risks, inadvertence of violations, inherent uncertainty in potential recovery, change in Defendant’s policies, and Defendant’s other defenses—including challenge to number of pay periods employees may have been reimbursed below standard IRS rate. Defendant also contended it had uniform policy of paying wages on or after the eighth day after close of a pay period. Assuming penalties of 10% of maximum, realistic adjusted liability of \$17,500.00. (Agnew Decl., ¶¶ 48-57.)

GSA is approximately 68.5% of maximum liability without “stacking”, and approximately 34% of maximum liability with “stacking”. GSA is approximately 350% of realistic adjusted liability. This is good result and provides “genuine and meaningful” relief consistent with the PAGA statutes.

Released Claims: All claims for PAGA penalties predicated on violations of Labor Code sections 204 and/or 2802, based on facts in PAGA Notice and operative complaint, whether known or unknown, including any claims under the Labor Code and/or IWC Wages Orders, as well as resulting claim for attorneys’ fees and costs that accrued during PAGA Period. Includes Section 1542 waiver. (2nd Agmt., Sec. F.5.)

Plaintiff’s General Release: Any and all claims or causes of action, including any claims related to his employment with Defendant as well as termination from his employment, under state or federal law, in tort, common law, statute, contract, or equity, whether or not alleged in the operative complaint, including claims under Title VII of the 1964 Civil Rights Act, the 1991 Civil Rights Act, the ADA, age discrimination, FLSA, FEHA, etc. based on any act or omission of Defendant

prior to date of execution of settlement agreement. Includes Section 1542 waiver. (2nd Agmt., Sec. F.7.)

Settlement Administration: Parties have selected Phoenix Settlement Administrators. Administrator to be paid administration costs estimated at \$1,750.00. (2nd Agmt., Sec. D.10.)

Attorneys' Fees: Settlement allows maximum attorneys' fees award of \$20,000.00. Counsel incurred 33.10 hours through June 14, 2023, resulting in lodestar of \$23,170.00 based on \$700/hr. Counsel has incurred 22.20 hours since June 14, 2023, resulting in estimated lodestar of \$15,540.00. (Agnew Decl., ¶¶ 67, 68; Exhs. 6 and 7.) Maximum award results in approx. negative multiplier of -1.9. Counsel apologizes and acknowledges errors in original Settlement Agreement should have been caught prior to Court approval, and explains why errors occurred. (Id., ¶¶ 69-71.)

Litigation Costs: Settlement provides for up to \$5,000.00 in litigation costs. Counsel attests actual costs totaled \$1,928.98, and provides costs bill. (Agnew Decl., ¶ 45; Exh. 5.)

Enhancement: Settlement provides for \$2,000.00 enhancement award. Was reduced from \$3,000.00 in connection with approval of original settlement. Plaintiff attests he spent significant time on the action, including numerous meetings with counsel, providing documents, reviewing PAGA letter, and reviewing all iterations of the Settlement Agreement. (ROA 145, Ojo Decl., ¶ 6.)

Notice to LWDA: Counsel attests current Motion, Second Amended Settlement Agreement, and Proposed Order were served on the LWDA. (Agnew Decl., ¶ 76; Exh. 12.)

Continuing Jurisdiction: Settlement provides for continuing jurisdiction of the Court. (2nd Agmt., Sec. G.5.)

RULING:

The hearing on the Motion for Approval of Second Amended Joint Stipulation of Settlement and Release Under the Private Attorneys General Act is CONTINUED to October 25, 2024, at 1:30 p.m. in Department CX103 so that counsel can address the following issues:

1. Proposed Second Amended Complaint must be filed with the clerk's office immediately.

2. Caption on Proposed Order must reflect actual date of approval hearing.

3. Introductory paragraph and Paragraph 1 of the Proposed Order must reflect the correct ROA numbers of the Motion and the declaration to which the Second Amended Settlement Agreement is attached.

4. Paragraph 13 of Proposed Order must state that Court awarded attorneys' fees of \$10,000.00.

5. Paragraph 16 of Proposed Order must be amended to reflect \$10,000.00 increase in PAGA Penalties Fund and the resulting increases in the amount of penalties paid to the LWDA and the amount distributed to the Aggrieved Employees.

6. Paragraph 17 of the Proposed Order must state that funds from the uncashed checks will be disbursed to the cy pres recipient, Legal Aid at Work.

7. Paragraph 19 of the Proposed Order must state that Court's continuing jurisdiction is pursuant to CCP § 664.6 and CRC rule 3.769(h).

8. Paragraph should be added to Proposed Order stating that the settlement administrator will post copies of the operative complaint, Notice to Aggrieved Employees, Second Amended Settlement Agreement, and Final Order and Judgment on its website for at least 90 days.

9. Notice to Aggrieved Employees should be amended to state that attorneys' fees award is \$10,000.00.

10. Notice to Aggrieved Employees should include paragraph advising that the check cashing period is 180 days, and settlement checks will be voided after that time.

If counsel submits the revised Notice to Aggrieved Employees and the revised Proposed Order at least 10 calendar days prior to the continued hearing, the Court is inclined to GRANT the Motion, and approve the following distributions:

Attorneys' fees \$10,000.00

Litigation costs \$ 1,928.98

Administration costs \$ 1,750.00

Enhancement award \$ 2,000.00

Taking these distributions into account, \$44,321.02 remains to be distributed as provided under PAGA. This amount shall be allocated as follows: (a) \$33,240.76 (75%) to the LWDA; and (b) \$11,080.26 to Aggrieved Employees.

	If the supplemental filings are satisfactory to the Court, the Court will grant the Motion and vacate the continued hearing. Otherwise, the continued hearing will proceed as scheduled.
--	---

	Plaintiff to give notice, including to the LWDA, and file proof of service within five (5) calendar days.
--	--

	The Court does not require any physical or remote appearance at the hearing on August 9, 2024.
--	---

	If the parties do not intend to submit on the tentative, please inform the clerk by emailing her before 12:00 p.m. on the day of the hearing at CX103@occourts
--	---

- 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
- 26
- 27
- 28

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

On August 14, 2024, I served the following document(s) described as: **NOTICE OF ORDER** on the interested parties in this action as follows:

 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the One Legal E-Filing System at the website www.onelegal.com addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 14, 2024, at Los Angeles, California.

PROOF OF SERVICE