

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

Central District, Stanley Mosk Courthouse, Department 14

**21STCV38247**

**SANTIAGO ALVAREZ vs BIAGI BROS., INC.**

February 19, 2025

8:30 AM

Judge: Honorable Cherol J. Nellon

Judicial Assistant: H. Garcia

Courtroom Assistant: D. Jones

CSR: None

ERM: None

Deputy Sheriff: None

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**APPEARANCES:**

For Plaintiff(s): Alan Irwin Schimmel by Arya Rhodes (via LACC)

For Defendant(s): Arif Virji (via LACC)

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**NATURE OF PROCEEDINGS:** Hearing on Motion - Other Motion for Approval of Settlement of Private Attorneys General Act (CRS# 6506); Order to Show Cause Re: Dismissal (Settlement)

The Court's tentative ruling is posted online for parties to review.

The matter is called for hearing.

Both parties submit to the Court's tentative ruling.

The Court adopts its tentative ruling as the final order of the Court as follows:

The Motion re: for Approval of Settlement of Private Attorneys General Act filed by SANTIAGO ALVAREZ on 01/17/2025 is Granted.

Case Background

Plaintiff Santiago Alvarez ("Plaintiff") filed his Complaint against Defendant Biagi Bros, Inc ("Defendant") and Does 1-100. The Complaint asserts a cause of action for PAGA violations.

Instant Pleading

Plaintiff moves for approval of PAGA settlement.

Decision

Plaintiff's motion for approval of the PAGA settlement agreement is GRANTED.

Legal Standard

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Labor Code, section 2699 states, in pertinent part, as follows:

“(a) Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, 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 the procedures specified in Section 2699.3...

...

(i) Except as provided in subdivision (j), civil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the Labor and Workforce Development Agency for enforcement of labor laws, including the administration of this part, and for education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes; and 25 percent to the aggrieved employees.

...

(l)(1) For cases filed on or after July 1, 2016, the aggrieved employee or representative shall, within 10 days following commencement of a civil action pursuant to this part, provide the Labor and Workforce Development Agency with a file-stamped copy of the complaint that includes the case number assigned by the court.

(2) The superior court shall review and approve any settlement of any civil action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court...”

Discussion

The terms of the proposed settlement are as follows. Defendant will pay a total \$195,000. (Mot. for Approval at p.3.) Defendant will pay \$68,250 in attorney’s fees and \$70,528.53 in costs to Plaintiff’s counsel, \$10,000 to Plaintiff for the resolution of Plaintiff’s individual claims, in exchange for his Civil Code section 1542 waiver and as an incentive payment for bringing this action on behalf of the State of California and his coworkers; and \$3,850 to the settlement administrator. (*Id.*) The net settlement is \$42,371.47. The LWDA will receive \$31,778.60 of the net settlement, which represents 75% of the net settlement. The aggrieved employees will receive \$10,892.87 of the net settlement, representing 25% of the net settlement.

The proposed settlement satisfies the requirements of Labor Code, section 2699. The LWDA has been notified of the settlement as required by the statute, and they have chosen not to object. In

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the absence of any objection from the LWDA, the motion is GRANTED.

Conclusion

Plaintiff's motion for approval of the PAGA settlement agreement is GRANTED.

The moving party is to give notice.

LATER AND OUT OF THE PRESENCE OF COUNSEL:

Order to Show Cause Re: Submission of Judgment or Dismissal is scheduled for 03/18/2025 at 08:30 AM in Department 14 at Stanley Mosk Courthouse.

Clerk hereby gives notice.

Certificate of Mailing is attached.

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|---------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p align="center"><b>SUPERIOR COURT OF CALIFORNIA<br/>COUNTY OF LOS ANGELES</b></p>                     |  | <p align="center">Reserved for Clerk's File Stamp</p>                                                                                                                                                 |
| <p>COURTHOUSE ADDRESS:<br/>Stanley Mosk Courthouse<br/>111 North Hill Street, Los Angeles, CA 90012</p> |  | <p align="center"><b>FILED</b><br/>Superior Court of California<br/>County of Los Angeles<br/>02/19/2025<br/>David W. Slayton, Executive Officer / Clerk of Court<br/>By: <u>H. Garcia</u> Deputy</p> |
| <p>PLAINTIFF/PETITIONER:<br/>SANTIAGO ALVAREZ</p>                                                       |  |                                                                                                                                                                                                       |
| <p>DEFENDANT/RESPONDENT:<br/>BIAGI BROS., INC.</p>                                                      |  |                                                                                                                                                                                                       |
| <p align="center"><b>CERTIFICATE OF MAILING</b></p>                                                     |  | <p>CASE NUMBER:<br/>21STCV38247</p>                                                                                                                                                                   |

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order (Hearing on Motion - Other Motion for Approval of Settlement o...) of 02/19/2025 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Alan Irwin Schimmel  
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Sherman Oaks, CA 91403

Arif Virji  
Carle, Mackie, Power & Ross LLP  
100 B Street Ste 400  
Santa Rosa, CA 95401

Dated: 02/19/2025

David W. Slayton, Executive Officer / Clerk of Court

By: H. Garcia  
Deputy Clerk

**CERTIFICATE OF MAILING**