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individually and on behalf of all others
similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

NOAH WINN, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

SOUTHERN GLAZER'S WINE AND
SPIRITS, LLC, a California limited liability
company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 22STCV38355

[Assigned for all purposes to the
Hon. Lynn M. Hobbs, Dept. 61]

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR APPROVAL OF PAGA
SETTLEMENT**

Date: January 21, 2025
Time: 10:00 a.m.
Dept.: 61

Reservation ID: 632681397534

Action Filed: December 9, 2022
Trial Date: March 11, 2025

1 TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on January 21, 2025, at 10:00 a.m., or as soon thereafter as this
3 matter may be heard, in Department 61 of the Los Angeles County Superior Court, located at 111 N.
4 Hill Street, Los Angeles, California 90012, Plaintiff Noah Winn ("Plaintiff") will, and hereby does,
5 move this Court, pursuant to Labor Code § 2699(1)(2), for entry of an order and judgment approving the
6 parties' Joint Stipulation and Settlement Agreement under the Labor Code Private Attorneys General
7 Act of 2004 ("PAGA").

8 The motion is based upon this notice, the attached Memorandum of Points and Authorities, the
9 Declaration of Matthew J. Matern and all exhibits thereto, the Declaration of Plaintiff, the complete files
10 and records of this case, and any other evidence or oral argument which may be considered by the Court
11 at the time of the hearing .

12
13 DATED: October 7, 2024

Respectfully submitted,

14 MATERN LAW GROUP, PC

15
16 By: Vanessa M. Rodriguez
17 MATTHEW J. MATERN
18 MATTHEW W. GORDON
19 VANESSA M. RODRIGUEZ
Attorneys for Plaintiff NOAH WINN,
individually and on behalf of all others similarly situated

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Pursuant to the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor
4 Code § 2698 *et seq.*, Plaintiff Noah Winn (“Plaintiff”) seeks court approval of the Joint Stipulation and
5 Settlement Agreement (“Settlement”), which, if approved, will resolve this action entirely. Plaintiff
6 alleges that Defendant Southern Glazer’s Wine and Spirits, LLC (“Defendant”) failed to provide
7 Plaintiff and other aggrieved employees with, among other things, lawful meal and rest periods, failed
8 to pay all overtime wages, and failed to furnish accurate itemized wage statements. The Settlement
9 resolves all claims for PAGA penalties based on the alleged Labor Code violations, on behalf of all
10 approximately 2,242 current and former non-exempt employees who worked for Defendant in
11 California at any time from October 5, 2021 through April 30, 2024 (“Settlement Members” or
12 “Aggrieved Employees”).¹

13 Under the terms of the Settlement, Defendant will pay a gross PAGA Settlement Amount of
14 \$2,435,000.00 to settle Plaintiff’s PAGA claims against the Released Parties. The civil penalties
15 secured by the Settlement are significant and fulfill PAGA’s underlying purpose to benefit the public
16 and to deter future labor law violations. As such, the Court should approve the Settlement. Plaintiff’s
17 request for attorneys’ fees in the amount of \$811,666.67 (i.e., one-third of the PAGA Settlement
18 Amount), reimbursement of costs in the amount of \$20,091.14, and settlement administration costs to
19 ILYM Group, Inc. (“ILYM”) in the amount of \$10,000.00 are also reasonable and should be approved
20 by the Court. Accordingly, Plaintiff respectfully requests that the Court enter an order and judgment
21 granting approval of the Settlement, pursuant to Labor Code § 2699(1)(2).

22 **II. FACTUAL AND PROCEDURAL BACKGROUND**

23 **A. The Parties**

24 Plaintiff was employed by Defendant as a Chain Sales Merchandiser from approximately July
25 2021 to January 2022. Declaration of Plaintiff Noah Winn in Support of Plaintiff’s Motion for
26

27 ¹ A copy of the Settlement is attached as Exhibit C to the Declaration of Matthew J. Matern
28 (“Matern Decl.”).

1 Approval of PAGA Settlement (“Winn Decl.”), ¶ 3. Plaintiff’s primary duties consisted of stocking
2 merchandise, ordering merchandise, and arranging floor display. *Id.* Defendant is a beverage distributor
3 for wines, spirits, beer, CBD, and non-alcoholic products in the U.S. and Canada.

4 **B. Procedural History**

5 **1. Plaintiff’s PAGA Notice and Complaint**

6 Pursuant to Labor Code § 2699.3, on April 7, 2022, Plaintiff gave written notice to the
7 California Labor and Workforce Development Agency (“LWDA”) and Defendant of the specific
8 provisions of the Labor Code alleged to have been violated, including the facts and theories to
9 support the alleged violations. Matern Decl. ¶ 3, Ex. A. The LWDA did not provide notice that it
10 intended to investigate the alleged violations. *Id.* Accordingly, on December 9, 2022, Plaintiff filed a
11 PAGA action against Defendant. *Id.* ¶ 4, Ex. B.

12 **C. Discovery and Investigation**

13 On June 13, 2023, Plaintiff served Defendant with written discovery as well as a notice of
14 deposition of Defendant’s Person Most Qualified. *Id.* at ¶ 5. Shortly thereafter, the parties agreed to
15 attend mediation and conduct informal discovery in advance of the mediation. *Id.*

16 Prior to mediation, Plaintiff obtained a 20% sample of timekeeping and payroll data for
17 approximately 2,205 non-exempt employees for the time period of October 5, 2021 to approximately
18 July 21, 2023, consisting of approximately 113,654 shifts. *Id.* at ¶ 6. Plaintiff’s counsel hired a data
19 expert to analyze the time and payroll data, which assisted Plaintiff’s counsel in preparing a model of
20 the potential civil penalties prior to the mediation. *Id.* In addition, Defendant produced relevant written
21 wage-and-hour policies and procedures. *Id.* Based on this discovery and investigation, Plaintiff’s
22 counsel was able to act intelligently and effectively in negotiating the Settlement. *Id.*

23 **D. Settlement Negotiations**

24 On January 30, 2024, the Parties participated in a private mediation with Hon. Angela M.
25 Bradstreet (Ret.). *Id.* at ¶ 7. The mediation was successful and the parties accepted a mediator’s
26 proposal to resolve the Action, subject to the parties entering into a comprehensive written settlement
27 agreement. *Id.*

28 On February 7, 2024, the Parties fully executed a Memorandum of Understanding, and on

May 9, 2024, the Parties fully executed a Joint Stipulation and Settlement Agreement (“Settlement” or “Settlement Agreement”).² *Id.* at ¶ 8, Ex. C. On October 2, 2024, the Parties executed an Amendment to the Settlement. *Id.* Ex. D.

III. SUMMARY OF SETTLEMENT

A. Settlement Members

The Settlement Members consist of any and all persons who worked for Defendant in California as non-exempt employees at any time from October 5, 2021 through April 30, 2024 (the “PAGA Period”). Settlement ¶¶ 1.4, 1.19. Defendant estimates that there are approximately 2,242 Settlement Members who worked a total of 159,059 PAGA Pay Periods. Settlement ¶ 4.1, Matern Decl. ¶ 9.

B. Settlement Terms

Under the terms of the Settlement, the claims of all Settlement Members shall be settled for the gross PAGA Settlement Amount of \$2,435,000.00, which is inclusive of Individual PAGA Payments, the LWDA PAGA Payment, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses Payment. Settlement ¶ 1.10.

The PAGA Settlement Amount shall be allocated as follows:

1. PAGA Penalties. The PAGA Settlement Amount less PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses Payment constitutes the “Net Settlement Amount.” Settlement ¶ 1.15. Seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA (“LWDA PAGA Payment”), and twenty-five percent (25%) of the Net Settlement Amount shall be distributed to Settlement Members as Individual PAGA Payments. Settlement ¶¶ 1.15, 1.14, 1.11. There will be no reversion to Defendant. Settlement ¶ 3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Settlement Members’ 25% share of PAGA Penalties by the total number of pay periods worked by all Settlement Members during the PAGA Period (“PAGA Pay Periods”) and (b) multiplying the result by each Settlement Member’s number of PAGA Pay Periods. Settlement ¶ 3.2.3.1.

² Plaintiff and Defendant have separately entered into a confidential individual settlement agreement for settlement and release of any derivative individual claims for damages and penalties that are outside the scope of the Settlement.

1 2. PAGA Counsel’s Attorney Fees and Costs. Subject to Court approval, PAGA Counsel
2 shall receive a PAGA Counsel Fees Payment in an amount not to exceed one-third of the PAGA
3 Settlement Amount, which equals \$811,666.67, plus reimbursement of reasonable costs and expenses
4 (“PAGA Counsel Litigation Expenses Payment”) not to exceed \$25,000.00. Settlement ¶ 3.2.1. PAGA
5 Counsel is seeking costs in the amount of \$20,091.14. Matern Decl. ¶ 31.

6 3. Administration Expenses Payment. Subject to Court approval, the Administrator, ILYM
7 Group, Inc., shall be paid for the reasonable costs and expenses incurred for administration of the
8 Settlement in an amount up to \$15,000.00. Settlement ¶ 1.3, 3.2.2.

9 **C. The Release**

10 Upon Defendant’s funding of the entire PAGA Settlement Amount, the claims released by
11 Plaintiff and the Settlement Members are as follows: all PAGA claims for civil penalties under
12 California Labor Code section 2698, et seq., predicated on the California Labor Code violations that are
13 asserted in the LWDA Notice and operative complaint (or PAGA Claims that could have been asserted
14 based on the facts alleged in the operative LWDA Notice and operative complaint) which are for civil
15 penalties pursuant to Labor Code section 2699, et seq. for violations of Labor Code §§ 201, 202, 203,
16 204, 210, 221, 223, 224, 226, 226(a), 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2802 and
17 applicable Industrial Welfare Commission Wage Orders including California Code of Regulations,
18 Title 8, Section 11040, Subdivision 5(A)-(B) (“Released Claims”). The release shall run through the
19 PAGA Period. Settlement ¶ 5.

20 The Released Claims do not include underlying Labor Code claims, claims for wrongful
21 termination, discrimination, unemployment insurance, disability, and workers’ compensation, and
22 claims outside of the PAGA Period. *Id.* The Released Claims do not include any claims that cannot be
23 released as a matter of law. *Id.* The Released Claims do not include any claims that will be released by
24 Settlement Members in *Tiffany Niz v. Southern Glazers Wine and Spirits, LLC* (Case No. CIV DS
25 2008028). *Id.*

26 As part of the consideration for the settlement of Plaintiff’s individual claims, Plaintiff shall
27 enter into a general release of all known and unknown claims of any type whatsoever that he may have
28 against the Released Parties. *Id.* This release will include, but will not be limited to, a release of all

claims under the Fair Employment and Housing Act, Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964 and the California Labor Code. *Id.* This will also include a release of any and all claims, known or unknown, contingent, or accrued arising out of any act or event that occurred prior to execution of the release, including a California Civil Code section 1542 waiver. *Id.*

“Released Parties” means Defendant and all affiliated predecessor and successor entities, and each such entity’s respective present and former subsidiaries, affiliates, parents, agents, employees, former employees, partners, owners, director’s, officers, attorneys, trustees, insurers, representatives, predecessors, successors and assigns. Settlement ¶ 1.26.

D. Settlement Administration

Within 30 days of the Court granting approval of the Settlement, Defendant shall provide the Settlement Administrator with a Microsoft Excel spreadsheet containing the Settlement Members’ Data. Settlement ¶ 4.2. The Settlement Members’ Data consists of identifying information in Defendant’s possession, including each Settlement Member’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods. Settlement ¶ 1.5.

Defendant shall fully fund the PAGA Settlement Amount by transmitting the funds to the Administrator no later than 15 calendar days after the date on which the Court enters a Judgment on its Order Approving the PAGA Settlement (the “Effective Date”). Settlement ¶¶ 4.3, 1.9.

Within 14 days after Defendant funds the PAGA Settlement Amount, the Administrator will mail checks or transmit funds for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Litigation Expenses Payment. Settlement ¶ 4.4.

The Administrator will issue checks for the Individual PAGA Payments and send them to the Settlement Members via First Class U.S. Mail. Settlement ¶ 4.4.1. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. *Id.* The Administrator will cancel all checks not cashed by the void date. *Id.*

Before mailing any checks, the Settlement Administrator will update the recipients’ mailing addresses using the National Change of Address Database. Settlement ¶ 4.4.1. For all Settlement Members whose checks are returned undelivered without a USPS forwarding address, the Administrator

1 will conduct a Settlement Member Address Search, which entails searching for current Settlement
2 Member mailing addresses using all reasonably available sources, methods, and means including, but
3 not limited to, the National Change of Address database, skip traces, and direct contact by the
4 Administrator with Settlement Members. Settlement ¶¶ 4.4.2, 1.6. Within 7 days of receiving a
5 returned check the Administrator must re-mail checks to the USPS forwarding address provided or to
6 an address ascertained through the Settlement Member Address Search. Settlement ¶¶ 4.4.2. The
7 Administrator shall promptly send a replacement check to any Aggrieved Employee whose original
8 check was lost or misplaced, requested by the Settlement Member prior to the void date. *Id.*

9 For any Settlement Member whose Individual PAGA Payment check is uncashed and cancelled
10 after the void date, the Administrator shall transmit the funds represented by such checks to the
11 California Controller's Unclaimed Property Fund in the name of the Settlement Member. Settlement ¶
12 4.4.3.

13 **IV. THE COURT SHOULD GRANT APPROVAL OF THE PAGA SETTLEMENT**

14 **A. The Standard for Review and Approval of PAGA Settlements**

15 The PAGA statute specifically provides that “[t]he superior court shall review and approve any
16 settlement of any civil action filed pursuant to this part.” Lab. Code § 2699(l)(2). The statute, however,
17 does not require a two-step (preliminary and final approval) process or otherwise mimic the class action
18 approval requirements when the parties reach a settlement only as to PAGA civil penalties. *See Arias v.*
19 *Superior Court* (2009) 46 Cal.4th 969, 975 (class action requirements “need not be met when an
20 employee’s representative action against an employer is seeking civil penalties” under PAGA). “[A]
21 trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate
22 in view of PAGA’s purposes to remediate present labor law violations, deter future ones, and to
23 maximize enforcement of state labor laws.” *Moniz v. Adecco USA, Inc.* (2021) 72 Cal. App.5th 56, 77.

24 A PAGA representative action to recover civil penalties “is fundamentally a law enforcement
25 action designed to protect the public and not to benefit private parties.” *Iskanian v. CLS Transportation,*
26 *Los Angeles* (2014) 59 Cal.4th 348, 381. When evaluating a PAGA settlement, a trial court “must
27 scrutinize whether, in resolving the action, a PAGA plaintiff has adequately represented the state’s
28 interests, and hence the public interest.” *Moniz*, 72 Cal.App.5th at 89. In addition, a court must

1 independently determine whether a PAGA settlement is fair, adequate, and reasonable using similar
2 factors that apply to the evaluation of the fairness of a class action settlement, “including the strength of
3 the plaintiff’s case, the risk, the stage of the proceeding, the complexity and likely duration of further
4 litigation, and the settlement amount.” *Id.* at 77.

5 **B. The Settlement Is Fair, Reasonable, and Adequate**

6 Here, the Settlement is consistent with PAGA’s goal of penalizing Defendant for the alleged
7 violations, deterring future violations, and providing a benefit to the public through enforcement of
8 state labor laws.

9 The gross PAGA Settlement Amount of \$2,435,000.00 is significant enough to deter Defendant
10 from future violations, creating an effective disincentive for Defendant to engage in unlawful business
11 practices. Matern Decl. ¶ 14. The Settlement provides a substantial benefit to the State of California,
12 with the LWDA receiving approximately \$1,194,931.64, as 75 percent of the Net Settlement Amount,
13 to assist with the future enforcement of state labor laws. *Id.* The Settlement also provides a substantial
14 benefit to the Aggrieved Employees, who will share approximately \$398,310.55, as 25 percent of the
15 Net Settlement Amount. *Id.* Accordingly, the Settlement fulfills the underlying purposes of the statute
16 and confers a substantial benefit on the public.

17 In assessing whether the Settlement is fair, reasonable, and adequate, the Court may balance the
18 amount in penalties with the risks of further litigation. Here, Plaintiff obtained a meaningful amount in
19 civil penalties despite facing significant challenges and risks had the litigation continued. *Id.* ¶¶ 10-15.
20 Plaintiff considered several factors in reaching the decision to settle at this point in the litigation,
21 including significant risks in proceeding with litigation. *Id.* Plaintiff recognizes that proving liability
22 and PAGA penalties at trial would be an expensive, time-consuming, and extremely uncertain
23 proposition. *Id.* ¶ 10. Moreover, continued litigation would very likely reduce and substantially delay
24 any recovery to the state and the aggrieved employees. *Id.* Even if Plaintiff were to obtain a favorable
25 judgment at trial, Defendant would likely appeal the judgment, which would further delay any
26 recovery. *Id.* Additionally, this area of the law is constantly evolving, creating uncertainty for
27 employees. *Id.*

28 Plaintiff also considered the reality that courts have discretion to substantially reduce any award

1 of civil penalties on the grounds that “to do otherwise would result in an award that is unjust, arbitrary
2 and oppressive, or confiscatory,” pursuant to Labor Code § 2699(e)(2). *Id.* ¶ 11.

3 Further, while Plaintiff and MLG remain confident in the merits of the case, a legitimate
4 controversy exists as to each predicate Labor Code claim. *Id.* ¶ 12. Defendant contends that, throughout
5 the PAGA Period, they complied with applicable California law. *Id.* The Settlement removes all of
6 these risks. *Id.* at 14. Plaintiff has calculated the maximum potential penalties in an “everything goes
7 right” scenario to be approximately \$76,897,878.10. Matern Decl. ¶ 9. Considering the risks of
8 continued litigation, the burdens of proof necessary to establish liability, the unsettled state of the law,
9 the possibility that the Court would reduce an award of civil penalties, and the probability of appeal of
10 a favorable judgment, it is clear that the non-reversionary settlement amount of \$2,435,000.00 is fair,
11 adequate, and reasonable in light of PAGA’s purpose to remediate present labor law violations, to deter
12 future violations, and to maximize enforcement of the Labor Code. *Id.* ¶ 15. Specifically, Plaintiff and
13 his counsel considered several factors in reaching the decision to settle at this point in the litigation,
14 including: (1) the risk in proving liability and PAGA penalties at trial; (2) the prospect that the Court
15 could substantially reduce any award of civil penalties on the grounds that “to do otherwise would
16 result in an award that is unjust, arbitrary and oppressive, or confiscatory” pursuant to Labor Code §
17 2699(e)(2); (3) the fact that trial would be an expensive, time-consuming and extremely uncertain
18 proposition; (4) the fact that Defendant paid its employees meal period premiums; and (5) the fact that
19 the Court could limit the scope of Plaintiff’s claims at trial or limit the type of evidence Plaintiff may
20 present at trial pursuant to *Estrada v. Royalty Carpet Mills, Inc.* (2024) 15 Cal.5th 582, 619. *Id.*
21 Continued litigation could lead to an unfavorable judgment and/or a lengthy and unsuccessful appeal.
22 *Id.*

23 Plaintiff’s counsel estimates a 50% chance of prevailing at trial, reducing the potential civil
24 penalties to approximately \$38,448,939.00. *Id.* Plaintiff’s counsel further considered the likelihood that
25 the Court would substantially reduce any award of civil penalties on the grounds that “to do otherwise
26 would result in an award that is unjust, arbitrary and oppressive, or confiscatory,” pursuant to Labor
27 Code section 2699(e)(2). *Id.* For example, during the penalty phase of the trial in *Carrington v.*
28 *Starbucks Corp.* (2018) 30 Cal.App.5th 504, the plaintiff requested PAGA penalties in the amount of

1 approximately \$70 million. *Id.* at 528. The trial court instead awarded only \$150,000—or 0.21% of the
2 maximum—and stated that this reduction was warranted because imposing the maximum penalty
3 would be “unjust, arbitrary, and oppressive” based on Starbucks’ “good faith attempts” to comply with
4 meal period obligations and because the court found the violations were minimal. *Id.* at 517. The Court
5 of Appeal affirmed the lower court’s reduced award of \$150,000 in penalties under PAGA. *Id.* at 529.
6 If a similar reduction to the maximum penalties is applied here, Plaintiff and aggrieved employees
7 would recover, in total, only approximately \$80,742.77 in PAGA penalties. *Id.*

8 For these reasons, the Court should find that the Settlement is fair, reasonable, and adequate.

9 **V. THE REQUESTED ATTORNEYS’ FEES AND COSTS ARE REASONABLE**

10 The Settlement provides for attorneys’ fees to PAGA Counsel in an amount up to one-third of
11 the Gross Settlement Amount, for a maximum fee award of \$811,666.67, plus reasonable litigation
12 costs not to exceed \$25,000.00. Settlement ¶ 3.2.1. Plaintiff requests attorneys’ fees pursuant to the
13 “common fund theory.” *See Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal. 5th 480, 504 (“the percentage
14 of the fund method more accurately reflects the results achieved”).

15 **A. Plaintiff’s Counsel Are Entitled to Attorneys’ Fees and Costs under PAGA**

16 Labor Code § 2699(g)(1) provides that “[a]ny employee who prevails in any [PAGA] action
17 shall be entitled to an award of reasonable attorney’s fees and costs.” Lab. Code § 2699(g)(1). It is
18 undisputed that Plaintiff is the prevailing party with a net monetary recovery. *See DeSaulles v. Cmty*
19 *Hosp. of Monterey Peninsula* (2016) 62 Cal.4th 1140, 1157 (“the rule is that a partial recovery, as long
20 as it is a net monetary recovery, entitles a plaintiff to costs.”). Accordingly, Plaintiff is entitled to
21 recover reasonable attorneys’ fees and costs.

22 **B. The Requested Fees Are Reasonable Under the Common Fund Method**

23 A request for attorneys’ fees as a percentage of the gross settlement amount is supported by the
24 “common fund theory,” where “one who expends attorney fees in winning a suit which creates a fund
25 from which others derive benefits, may require those passive beneficiaries to bear a fair share of the
26 litigation costs.” *Serrano v. Priest* (1977) 20 Cal.3d 25, 35 (citing *Quinn v. State of California* (1975)
27 15 Cal.3d 162); *Laffitte*, 1 Cal.5th at 503 (trial court “may determine the amount of a reasonable fee by
28 choosing an appropriate percentage of the fund created”). The percentage is properly based upon the

1 maximum settlement amount, rather than upon the amount of funds distributed to class members.
2 *Williams v. MGM-Pathe Communications Co.* (9th Cir. 1997) 129 F.3d 1026. In *City and County of*
3 *San Francisco v. Sweet* (1995) 12 Cal.4th 105, the California Supreme Court recognized that the
4 common fund doctrine has been applied “consistently in California when an action brought by one
5 party creates a fund in which other persons are entitled to share.” *Id.* at 110, fn. omitted.

6 The Supreme Court of California has clarified that:

7 [W]hen an attorney fee is awarded out of the common fund preserved or recovered by
8 means of litigation [citation], the award is not per se unreasonable merely because it is
calculated as a percentage of the common fund.

9 *Laffitte*, 1 Cal.5th at 486.

10 California courts routinely award attorneys’ fees equaling one-third or more of the common
11 fund. *See, e.g., Laffitte*, 1 Cal.5th at 506 (affirming fee award representing one-third of a non-
12 reversionary fund); *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11 (“fee awards in class
13 actions average around one-third of the recovery”); Eisenberg & Miller, *Attorney Fees in Class Action*
14 *Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at
15 35 (independent studies of class action litigation nationwide conclude that fees representing one-third
16 of the total recovery is consistent with market rates). In addition, a fee award in the amount of one-third
17 of the common fund is reasonable because it best reflects the market rate for contingency fees. *See*
18 *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 47 (“[A]ttorneys providing the essential
19 enforcement services must be provided incentives roughly comparable to those negotiated in the private
20 bargaining that takes place in the legal marketplace.”).

21 Here, Plaintiff’s request for attorneys’ fees in the amount of one-third of the PAGA Settlement
22 Amount is reasonable given the significant result achieved on behalf of the State of California and
23 Settlement Members. Plaintiff’s counsel has litigated the Action for almost two years on a purely
24 contingent basis, incurring over \$20,000.00 in costs with no guarantee of recovery. *Id.* ¶¶ 16-18, 27-31.
25 In addition, the requested fee percentage is less than that charged by Plaintiff’s counsel for other
26 employment cases. *Id.* ¶ 17. The Settlement provides a substantial benefit to the State of California,
27 with the LWDA receiving approximately \$1,194,931.64, as 75 percent of the Net Settlement Amount to
28 assist with the enforcement of labor laws. *Id.* ¶ 14. The Settlement also provides a substantial benefit to

1 the Settlement Members, who will share approximately \$398,310.55, as 25 percent of the Net
2 Settlement Amount. *Id.* Based thereon, it is currently estimated that each Settlement Member, on
3 average, will receive an Individual PAGA Payment of approximately \$177.66 as part of the Settlement.
4 *Id.*

5 Accordingly, Plaintiff's request for attorneys' fees in the amount of \$811,666.67, or one-third of
6 the gross PAGA Settlement Amount, is reasonable under California law.

7 **C. Plaintiff's Counsel's Costs Are Reasonable**

8 PAGA Counsel is entitled to reimbursement of reasonable litigation costs under PAGA. *See*
9 Lab. Code § 2699(g)(1). The Settlement provides for reimbursement of costs not to exceed \$25,000.00.
10 Settlement ¶ 3.2.1. To date, Plaintiff's counsel has incurred actual costs in the amount of **\$20,031.14**.
11 Matern Decl. ¶ 31. PAGA Counsel will incur approximately \$60.00 in future costs for motion filing
12 fees, for a total of **\$20,091.14** in costs. *Id.* Because these costs were reasonably incurred in prosecuting
13 the Action on behalf of the State of California and Aggrieved Employees, the costs should be approved
14 by the Court. *Id.* Accordingly, Plaintiff's counsel respectfully requests the Court approve the
15 reimbursement of costs in the amount of **\$20,091.14**.

16 **VI. THE REQUESTED ADMINISTRATION COSTS ARE REASONABLE**

17 The Settlement provides for settlement administration costs up to \$15,000.00 to be paid from
18 the PAGA Settlement Amount to ILYM Group, Inc. Settlement ¶¶ 3.2.2, 7.1. ILYM Group, Inc. has
19 provided Plaintiff's counsel with a not to exceed bid for administering the Settlement in the amount of
20 \$10,000.00. Given the number of Aggrieved Employees and the scope of the duties to be performed by
21 ILYM Group, Inc., the Court should approve settlement administration costs in the amount of
22 \$10,000.00 as reasonable. Settlement ¶ 4.

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1 **VII. CONCLUSION**

2 Based on the foregoing, Plaintiff respectfully requests that the Court grant approval of the
3 Settlement and enter the proposed judgment.
4

5 DATED: October 7, 2024

Respectfully submitted,

6 MATERN LAW GROUP, PC
7

8 By: Vanessa M. Rodriguez
9 MATTHEW J. MATERN
10 MATTHEW W. GORDON
11 VANESSA M. RODRIGUEZ
12 Attorneys for Plaintiff NOAH WINN,
13 individually and on behalf of all others similarly situated
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Make a Reservation

NOAH WINN vs SOUTHERN GLAZERS WINE AND SPIRITS, LLC

Case Number: 22STCV38355 Case Type: Civil Unlimited Category: Other Employment Complaint Case
Date Filed: 2022-12-09 Location: Stanley Mosk Courthouse - Department 61

Reservation

Case Name:

NOAH WINN vs SOUTHERN GLAZERS WINE AND SPIRITS, LLC

Case Number:

22STCV38355

Type:

Motion re: (Motion for Preliminary Approval of PAGA Settlement)

Status:

RESERVED

Filing Party:

Noah Winn (Plaintiff)

Location:

Stanley Mosk Courthouse - Department 61

Date/Time:

01/21/2025 10:00 AM

Number of Motions:

1

Reservation ID:

632681397534

Confirmation Code:

CR-NAYJPH5HZQKHJPZAN

Fees

Description	Fee	Qty	Amount
Motion re: (name extension)	0.00	1	0.00
TOTAL			\$0.00

Payment

Amount:

\$0.00

Type:

NOFEE

Account Number:

n/a

Authorization:

n/a

Payment Date:

n/a

Print Receipt

[+ Reserve Another Hearing](#)

