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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF VENTURA**

10 **Kelly Del Manzano**, individually, and **Daniel**
11 **Garcia**, individually, and on behalf of other ag-
grieved employees pursuant to the California
Private Attorneys General Act;

12 Plaintiff,

13 vs.

14 **The Rocket Fizz Soda Pop Shop, LLC**, a Califor-
15 nia corporation, and **Does 1 through 10**, inclu-
16 sive,

17 Defendants.

CASE NO. 56-2023-00574163-CU-OE-VTA

Judge: Hon. Ronda McKaig; Dept: 41

18 **PLAINTIFF'S NOTICE OF RULING RE:**
19 **HEARING ON MOTION FOR COURT**
20 **APPROVAL OF PAGA SETTLEMENT**

21 Date: October 12, 2023
22 Time: 8:30 a.m.

23 Case filed: January 4, 2023
24 Trial date: None Set

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on October 12, 2023, the Court conducted a Hearing on Plaintiff's Notice and Unopposed Motion for Approval of PAGA Settlement. Attached herein as **Exhibit A** is the Court's Minute Order.

Dated: November 2, 2023

Respectfully submitted,

LAW OFFICE OF XAVIER VILLEGAS, APC

By: 
Xavier Villegas
Attorney for Plaintiffs

EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA

Superior Court of California, County of Ventura, Hall of Justice, Department 41

202300574163CUOE
Del Manzano vs. RocketFizz

October 12, 2023
8:20 AM

Judge: Honorable Ronda McKaig
Judicial Assistant: Kim Goodman
CSR: None

APPEARANCES:

Xavier Villegas, counsel, present for Plaintiff(s) telephonically.

NATURE OF PROCEEDINGS: Motion for Court Approval of Paga Settlement

Court proceedings were conducted using CourtCall.

8:37 a.m. Court convenes in this matter.

Counsel have received and read the Court's written tentative ruling.

Matter submitted to the Court without argument.

The Court finds/orders:

The Court grants Plaintiff's Motion for Court Approval of the PAGA Settlement, finding the stipulated settlement fair, adequate and reasonable.

Background: Complaint filed for enforcement under PAGA, Labor Code §2698 et seq regarding overtime, meal and rest breaks, minimum wage, termination pay, wage statements, etc.

The parties reached settlement in June 2023.

Under the Settlement Agreement, attached as Ex. 2, Defendant agrees to pay a common fund settlement of \$33,000 in two installments. The Settlement Fund is inclusive of payments to the LWDA and Allegedly Aggrieved Employees, Plaintiff's Counsel Payment and Settlement Administrator Costs. No portion of the Settlement Fund will revert to Defendant.

Plaintiff's Counsel requests an award of attorney's fees of \$11,000 (as 1/3 of the total settlement) and reimbursement of actual litigation expenses of \$2,250.22. Defendant does not oppose these requests. Plaintiffs request up to \$2,000 in administration costs to Phoenix Settlement Administrators. After those costs there remains approximately \$17,749.78 for the PAGA Fund. Pursuant to Labor Code section 2699(i), the PAGA Fund will then be distributed 75 percent (approximately \$13,312.34) to the LWDA, and the remaining 25 percent (approximately \$4,437.44) to the allegedly aggrieved employees on a pro-rata basis. There are about 22 current

and former employees at issue.

Discussion: “Representative PAGA actions ‘directly enforce the state's interest in penalizing and deterring employers who violate California's labor laws.’ [Citation].” (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 548.) Labor Code section 2699, subdivision (a) states: “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.”

On the issue of settlement, Labor Code section 2699, subdivision (1)(2) states: “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.”

“[W]hile PAGA does not require the trial court to act as a fiduciary for aggrieved employees, adoption of a standard of review for settlements that ‘prevents fraud, collusion or unfairness’ [citation], and protects the interests of the public and the LWDA in the enforcement of state labor laws is warranted. Because many of the factors used to evaluate class action settlements bear on a settlement's fairness—including the strength of the plaintiff's case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount—these factors can be useful in evaluating the fairness of a PAGA settlement.” (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77, internal quotations omitted.)

The Court finds that the PAGA settlement appears to be fair to all those affected. The PAGA settlement and the motion were submitted to the LWDA at the same time this motion was filed. (Dec. of counsel, ¶ 24, Ex 3.) The record shows that the settlement was reached after arms-length negotiations and after Plaintiff's counsel's review of the claims, discovery, and substantial negotiations. Plaintiff alleged eight Labor Code violations and Defendant had various defenses including that it had company policies requiring compliance with the Labor Code and that departures were aberrational. Plaintiff's counsel projected Defendant's likely maximum exposure was approximately \$196,400. (Dec. ¶ 14.) A non-revisionary Gross Settlement amount of \$33,000 represents a reasonable recovery in this case in terms of a settlement. Pursuant to Labor Code section 2699, 75 percent shall be distributed to the Labor and Workforce Development Agency and 25 percent to the aggrieved employees. The proposed Notice appears fine.

The requested attorney's fees award of 1/3 of the settlement or \$11,000 appears to be reasonable and somewhat standard in these types of cases. The stated costs of \$2,250.22 appear to be reasonable. The declaration from Phoenix, the proposed Settlement Administrator, through Jodey Lawrence, shows that the fixed fee of \$2,000 also appears to be reasonable for the services provided. The Court deems the reference to \$4000 in ¶3.4 of the stipulated agreement to be a typo which should say \$2000.

Based on the above, the proposed Settlement Agreement appears fair, adequate, and reasonable, and achieves the purposes of PAGA.

Order signed this date.

Status Conference Re: Final Accounting is scheduled for 01/12/2024 at 08:20 AM in Department 41 at Hall of Justice.

Final accounting report to be filed and served 5 days prior to the hearing.

Notice to be given by Mr. Villegas.

Amended on 10/20/2023 9:45 AM

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF VENTURA

I, Maggie Hawkins declare as follows:

1. I am over the age of 18 and not a party to this action. My business address is 2390 Las Posas Road, C168, Camarillo, CA 93010, which is located in Ventura County, the county where this mailing occurred.

2. On November 2, 2023, I served the document(s) entitled:

**PLAINTIFF'S NOTICE OF RULING RE: HEARING ON MOTION FOR COURT APPROVAL OF
PAGA SETTLEMENT**

This document has been served on the interested parties in this action as follows:

Jamie N. Stein, Esq.
Brier Miron Setlur, Esq.

LIGHTGABLER
760 Paseo Camarillo, Suite 300
Camarillo, CA 93010

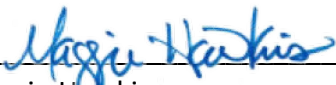
E-Mail: jstein@lightgablerlaw.com
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Fax: (805) 248-7209

Attorney(s) for Defendant The Rocket Fizz Soda Pop Shop, LLC

☒ **BY ELECTRONIC SERVICE:** By transmitting a true copy thereof to the electronic mail address(es) as indicted above from my email address Maggie@XavierVillegasLaw.com. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed November 2, 2023.


Maggie Hawkins