

LILIUOKALANI MARTIN, ESQ. (SBN 292778)
DOWNTOWN LA LAW GROUP, LLP
612 S. Broadway
Los Angeles, California 90014
Telephone: (213) 389-3765
Facsimile: (213) 389-2775
lili@downtownlalaw.com

Attorneys for Plaintiff
RAUL ZARAGOZA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

RAUL ZARAGOZA, an individual,
Plaintiff,

v.

AKM OIL CO, INC., a Corporation; PAOLA
DOE, an individual; and DOES 1 through 20,
inclusive,
Defendants.

Case No.: 22STCV35779

*Assigned to Hon. Judge Holly J. Fujie,
Department 56*

**PLAINTIFF RAUL ZARAGOZA'S NOTICE OF
MOTION AND MOTION TO APPROVE PAGA
SETTLEMENT; MEMORANDUM OF POINTS
AND AUTHORITIES; DECLARATION OF
LILIUOKALANI H. MARTIN; [PROPOSED]
ORDER**

**Date: April 17, 2025
Time: 8:30 am
Department: 56**

Reservation No.: 760754820917

Complaint Filed: November 10, 2022
Trial Date:

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, on April 17, 2025, at 8:30 am., or as soon thereafter as this matter may be heard in Department 56 of the above-entitled court, located at 111 N. Hill Street, Los Angeles, CA 90012. Plaintiff RAUL ZRAGOZA will and hereby does move for an order approving the PAGA Settlement reached in this case.

This motion will be, and hereby is, made pursuant to Labor Code section 2699(1)(2), all PAGA settlements must be reviewed and approved by the Court, the parties' PAGA settlement of this case is

1 contingent upon on this Court's approval, and on the further grounds that Defendant does not oppose the
2 relief requested.

3 The motion shall be based on this notice, the memorandum of points and authorities, declaration
4 of Liliuokalani H. Martin, and exhibits filed concurrently herewith, on all records on file in this case,
5 and on such other evidence as may properly come before the Court at or before the time of the hearing
6 of this motion.

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9 DATED: February 5, 2025

DOWNTOWN LA LAW GROUP
A LIMITED LIABILITY PARTNERSHIP

10
11 By: 

Liliuokalani H. Martin, Esq.
Attorneys for Plaintiff
RAUL ZARAGOZA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION AND STATEMENT OF FACTS**

3 Plaintiff RAUL ZARAGOZA (hereinafter “Plaintiff”) brought this action asserting violations of
4 the Labor Code, including failure provide meal and rest periods, failure to provide itemized wage and
5 hour statements, and for waiting time penalties as well as violation of unfair competition under
6 California Bus. & Prof. Code §17200, and a cause of action under the Private Attorneys General Act
7 (“PAGA”), against her former employer, Defendant AKM OIL CO, INC, a Delaware Limited Liability
8 Company; and PAOLA ALFARO, an individual, (collectively “Defendants”) on November 10, 2022.
9 Plaintiff also alleged claims for harassment, retaliation, failure to prevent harassment, retaliation in
10 violation of Labor Code section 1102.5 and 1102.6, and wrongful termination in violation of public
11 policy.

12 Specifically, Plaintiff alleged that he was not informed of his rights to meal and rest breaks and
13 as a result, suffered meal and rest break violations. Plaintiff’s lunch breaks were constantly taken after
14 the fifth hour, in violation of the law and Plaintiff was not permitted to take his 10-minute rest breaks.
15 Defendants deny all of Plaintiff’s allegations.

16 On or about February 13, 2023, Defendants filed their Answer to the complaint. Between
17 February 16, 2023, and February 9, 2024, Plaintiff and Defendants (collectively the “Parties”) litigated
18 this case, which included engaging in informal discovery, producing a 32% sampling of employee’s
19 time and wage records, producing the number of aggrieved employees and applicable pay periods, and
20 settlement negotiations, and which further included mediation with highly respected employment
21 mediator, Henry Bonjiovi, on February 9, 2024.

22 On September 10, 2024, the Parties reached a settlement in this action, which includes attorneys’
23 fees and costs, in full and final settlement of all claims in this action. The Parties entered a Settlement
24 Agreement and Release (“Settlement Agreement”). As part of the Settlement Agreement, Defendant
25 agreed to pay a total settlement amount of \$150,000 as a final resolution of all of Plaintiff’s PAGA
26 claims including administration costs, attorney’s fees and costs, and \$5,000.00 enhancement award to
27 Plaintiff for bringing the PAGA claim. 40%, or \$60,000, of the total settlement amount will be paid to
28 Plaintiff’s counsel for attorney’s fees. Costs incurred in litigating the PAGA claim is to not exceed

1 \$20,000, Plaintiff's counsels current costs are \$8,602.28. The remaining \$11,397.72 allocated for
2 Plaintiff's counsel's costs should be added to the amounts to be paid to the aggrieved employees. Costs
3 to the settlement administrator will not exceed \$5,000. The Parties have agreed to ILYM Group as the
4 settlement administrator. The Parties agreed to allocate to the resolution of Plaintiff's PAGA claim as
5 brought forth in this action, with Seventy-Five Percent (75%), or \$45,000.00, allocated for PAGA paid
6 directly to the California Labor and Workforce Development Agency ("LWDA"), and Twenty-Five
7 Percent (25%), or \$15,000 + \$11,397.72 that was reserved for Plaintiff's counsel's fees paid to the other
8 38 "aggrieved employees." The PAGA settlement is contingent upon this Court's approval of the
9 PAGA settlement portion.

10 In the Settlement Agreement, the parties agreed that "Aggrieved Employees" means all current
11 and former nonexempt hourly employees who worked in California employed by AKM Oil, Inc.,
12 including Plaintiff, during the period from September 6, 2021 through March 1, 2024.

13 Pursuant to the Labor Code section 2699(1)(2), the proposed settlement shall be submitted to the
14 LWDA while it is submitted to the Court, and the LWDA is being served with this motion.

15 Plaintiff now brings this motion for the approval of the PAGA aspect. For the reasons set forth
16 below, the settlement amount allocated to the PAGA penalties is fair and reasonable, and Plaintiff
17 respectfully requests that this Court grant this motion.

18 II. LEGAL ANALYSIS

19 A. The Court Should Approve The Settlement of the PAGA Portion Of This 20 Case Because The Amount Allocated to PAGA Is Reasonable

21 A settlement reached between the parties on a PAGA claim is subject to court review and
22 approval. Cal. Lab. Code § 2699(1). However, the PAGA does not set forth the factors that should be
23 considered when determining whether to approve a settlement other than the amount paid to settle a
24 claim for PAGA penalties should be allocated as twenty-five percent (25%) payable to the aggrieved
25 employees on whose behalf penalties were recovered, and seventy-five percent (75%) payable to the
26 LWDA. Lab. Code § 2699(i).

27 As explained by the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969,
28 the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore do

1 not need to follow the class action procedures for obtaining an approval of the settlement. *Arias v.*
2 *Superior Court*, 46 Cal.4th at 984. The settlement of Plaintiff's PAGA claim should be approved
3 because it is fair, adequate and reasonable. *See, Kirkorian v. Borelli*, (1988, N.D. Cal) 695 F. Supp. 446,
4 451(opinion of experienced counsel is entitled to considerable weight).

5 This allocation for PAGA penalties payable to the LWDA is a fair and reasonable compromise
6 of the PAGA penalties. Defendants continue to maintain that Plaintiff's claims lack merit. They deny
7 Plaintiff's meal period violations, wait-time and rest break violations as Plaintiff alleged. Thus, they
8 argue, because Plaintiff is not aggrieved by any of the specific Labor Code violations alleged in the
9 PAGA claim, he does not have standing to maintain the PAGA action. Defendants could try to argue
10 that the only evidence of wrongdoing is Plaintiff's highly individualized and anecdotal evidence that no
11 one informed him about meal and rest breaks or asked him to take rest breaks and may argue that it is
12 not sufficient to maintain a PAGA claim. Defendants argue that they had policies pertaining to meal and
13 rest breaks.

14 Plaintiff's counsel considered that even if Plaintiff prevailed on the merits of his PAGA claim,
15 Defendants could argue that the Court should exercise its discretion, under Labor Code section 2699(e),
16 to reduce the amount of civil penalties assessed. Plaintiff's counsel considered that Defendants could
17 pervasively argue that any PAGA penalties assessed should be reduced because: (1) Defendants did not
18 act knowingly or intentionally; (2) any errors in payment were not intentionally done as a result of
19 oversight or mistake; (3) until this lawsuit was filed, no employees had complained; (4) none of
20 Defendants' employees suffered any harm from or actual damage as a result of the conduct that forms
21 the basis for Plaintiff's allegations.

22 Counsel for each party also considered the fact that the existence of numerous disputes of fact in
23 this case made summary judgment unlikely for all parties. As such, resolving the instant PAGA claim
24 would require extensive litigation. In the estimation of each party's counsel, the delay, inconvenience,
25 distraction, and uncertainty imposed by these litigation demands would far outweigh the potential benefits
26 of additional litigation. Specifically, Plaintiff would have needed to take the depositions of each of the
27 potential 38 employees who worked for Defendant herein during the relevant time period, as well as the
28 depositions of the various managers and supervisors at the locations where the "aggrieved employees"

1 worked.

2 While Plaintiff's counsel disagrees that Defendants' arguments are legally correct or persuasive,
3 counsel had to consider the foregoing facts and arguments and how they might impact any judgment
4 ultimately awarded if the Court were persuaded by them. In light of these arguments and the potential
5 risks, Plaintiff's counsel determined that the settlement was fair and reasonable. The amount of the
6 PAGA settlement is sufficient to serve the policy rationale underlying the PAGA. Indeed, the settlement
7 amount is comparable (if not more generous than) PAGA settlements involving much larger class
8 claims. For example, in *Schiller v. David's Bridal, Inc.*, 1:10-cv-00616-AWI-SKO, 2012 U.S. Dist.
9 LEXIS 80776 (E.D. Cal. June 11, 2012), the Court approved a \$10,000 PAGA settlement in a case
10 involving 3,327 class members. Similarly, in *Chu v. Wells Fargo Investments, LLC*, No. C-05-4526
11 MHP, 2011 U.S. Dist. LEXIS 15821 (N.D. Cal. Feb. 16, 2011), the Court approved a \$10,000 PAGA
12 settlement in a case involving 2,752 class members. As such, because the instant settlement allocates
13 \$147,860.00 for Plaintiff's PAGA claim, the amount of the settlement is very reasonable.

14 Moreover, a trial court does not abuse its discretion by approving a settlement of a case
15 involving PAGA claims even when the settlement allocates zero of the settlement recovery to the PAGA
16 claims. *Nordstrom Com'n Cases* (2010) 186 Cal.App.4th 576, 589 [in class action case that included
17 PAGA claims, trial court did not abuse its discretion approving a settlement which does not allocate any
18 damages to the PAGA claims]. In *Nordstrom*, the case settled for millions of dollars without any
19 consideration to be paid for the PAGA claims alleged in the complaint. *Id.* at 580. Regardless, the
20 appellate court held that the trial court did not abuse its discretion in approving the settlement. *Id.* at 589.

21 Pursuant to the Settlement Agreement, and based upon the gross settlement amount, the Parties
22 determined and agreed that was properly allocated to potential individual PAGA penalties, distributed to
23 the LWDA and aggrieved employees, as required by the statute. The allocation is much greater than the
24 PAGA allocation in other PAGA settlements. See, e.g., *Franco v. Ruiz Food Products, Inc.*, (E.D. Cal.
25 2012) 2012 WL 591801 [approving PAGA allocation of \$10,000 against a settlement fund of \$2.5
26 million (.4 percent)]; *Garcia v. Gordon Trucking, Inc.* (E.D. Cal. 2012) 2012 WL 5364575 [approving
27 PAGA allocation of \$10,000 against a settlement fund of \$3.7 million (.3 percent)]; *Garibaldi v. Bank of*
28 *America*, N.A. (N.D. Cal. August 8, 2015) Case No. 13-cv-02223 (Dkt. 108) [approving PAGA

1 allocation of \$30,000 against a settlement fund of 9.5 million (.3 percent)]; *Chu v. Wells Fargo*
2 *Investments, LLC* (N.D. Cal. 2011) 2011 WL 672645 [approving PAGA allocation of \$10,000 against a
3 settlement fund of 6.9 million (.1 percent)].

4 Hence, because the PAGA allocation in this case is similar to those regularly approved by the
5 Courts, it has a reasonable basis in law.

6 **B. The Court Should Approve the Settlement of the PAGA Portion Of This**
7 **Case Because The Rights Of Other Aggrieved Employees Are Not Prejudiced**

8 PAGA permits an aggrieved employee to sue an employer for civil penalties associated with the
9 employer's alleged violation of various California Labor Code provisions. Lab. Code §2699(a).
10 Notably, an employee who complies with the PAGA pre-filing requirements *may* also seek penalties on
11 behalf of other aggrieved employees, but is not obligated to, and may instead seek the penalties on the
12 employee's sole behalf. Lab. Code §2699(g)(1) ["an aggrieved employee *may* recover the civil penalty
13 ... in a civil action... on behalf of himself or herself and other current or former employees against
14 whom one or more of the alleged violations was committed"]; see *Howard Jarvis Taxpayers Assn. v.*
15 *City of San Diego* (2004) 120 Cal.App.4th 374, 386 ["the word 'may' is also used in the state
16 Constitution to indicate the existence of a right, but not an obligation"]; *Compton College Federation of*
17 *Teachers v. Compton Community College Dist.* (1982) 132 Cal.App.3d 704, 711 ["The ordinary
18 meaning of 'shall' or 'must' is of mandatory effect, while the ordinary meaning of 'may' is purely
19 permissive in character"].

20 In that manner, a plaintiff seeking approval of a PAGA settlement is similar to a plaintiff seeking
21 approval of a class action settlement, where the plaintiff who initially brought the action in a
22 representative capacity is permitted, at any time prior to certification, to decline to continue acting in a
23 representative capacity, and may settle his or her own claims. See Cal. Rules of Court, Rule 3.770(a).
24 In such a case, the court may permit dismissal of class allegations without notice to any class members
25 (who have not even been provided notice of the proceeding), upon determining that their rights will not
26 be prejudiced. Cal. Rules of Court, Rule 3.770(c). See, e.g., *Pirjada v. Superior Court* (2011) 201
27 Cal.App.4th 1074, 1086 [in class action plaintiff settled individual claims with employer, dismissal
28

1 permitted without notice to putative class members or discovery as to their identities was not abuse of
2 discretion].

3 Here, this Court may determine that the rights of other aggrieved employees will not be
4 prejudiced. Unlike class actions where the class plaintiff prosecutes the action on behalf of the putative
5 class members, Plaintiff here did *not* prosecute the action on behalf of the similarly-aggrieved
6 employees. In PAGA claims, the plaintiff employee prosecutes on behalf of the Labor Commission; the
7 similarly-aggrieved employees have no private right of action in those penalties and no entitlement to
8 them. *Rope v. Auto-Chlor System of Washington, Inc.* (2013) 220 Cal.App.4th 635, 650¹ [“In PAGA,
9 the Legislature created an enforcement mechanism for aggrieved employees to file representative
10 actions to recover penalties in cases in which there is no private cause of action as an alternative to
11 enforcement by the Labor Commissioner”]; *Arias*, 46 Cal.4th at 980–987 [PAGA suit is a representative
12 action and need not be brought as a class action]. Approval of the settlement in this case will not
13 prejudice the rights of any others.

14 **C. The PAGA Settlement Furthers the Purposes Of The PAGA**

15 Finally, the Court should not place undue emphasis on *the amount* of the PAGA allocation. The
16 statute does not require this focus and, as amended in July 2016, the statute expressly contemplates the
17 possibility of approval with no penalty payments. Instead, this Court should focus on whether the
18 settlement furthers the purpose of the PAGA. If so, the PAGA allocation should be approved.

19 The LWDA has the discretion not to assess penalties in favor of other enforcement priorities.
20 *Scharwartz v. Poizner* (2010) 187 Cal.App.4th 592, 615 [an agency’s decision not to prosecute or
21 enforce, whether through civil or criminal process, is a decision generally committed to the agency’s
22 absolute discretion”]. The PAGA statute grants this Court the same discretion. See Lab. Code
23 § 2699(e)(2).

24 Moreover, some of the top enforcement priorities of the LWDA are “to vigorously enforce minimum
25 labor standards in order to ensure employees are not required or permitted to work under substandard
26 unlawful conditions...” and “to protect employers who comply with the law from those who attempt to
27 gain a competitive advantage at the expense of their works by failing to comply with minimum labor

28 ¹ Superseded by statute on unrelated ground.

standards.” Lab. Code § 90.5(a). The priorities include ensuring that labor code violations are paid and that unlawful pay practices stop. See Lab. Code §§ 1193.5 and 1194.5 [referenced in the enforcement priorities set forth in Labor Code §90.5(b)].

Here, the Settlement furthers the LWDA’s enforcement of these priorities. Plaintiff, while standing in the shoes of the LWDA, has obtained meal and rest break violations and injunctive relief as to Defendant’s employment practices as to him, which further incentivizes Defendant to comply with the Labor Code moving forward. Hence, the Settlement contributes to the enforcement of the Labor Code and should therefore be approved under PAGA.

III. CONCLUSION

In conclusion, the PAGA allocation is reasonable and more importantly furthers PAGA’s purpose. Based on the foregoing, Plaintiff respectfully requests that the Court approve the settlement of the PAGA claims:

That out of a total settlement amount of \$150,000.00 as a final resolution of all of Plaintiff’s claims:

\$5,000.00 of the total settlement amount will be paid to Plaintiff as an enhancement for bringing the claim.

\$ 60,000.00 of the total settlement amount will be paid to Plaintiff’s counsel for attorney’s fees incurred in litigating the PAGA claim;

Up to \$20,000 of the total settlement amount, but currently, \$8,602.28 of the total settlement amount will be paid to Plaintiff’s counsel for costs incurred in litigating the PAGA claim;

\$5,000 of the total settlement amount will be allocated to settlement administration costs.

\$60,000.00 of the total settlement amount will be allocated to Plaintiff’s PAGA claim with Seventy-Five Percent (75%), or \$45,000.00, paid directly to the California Labor and Workforce Development Agency (“LWDA”), and Twenty-Five Percent (25%), or \$15,000+ \$11,397.72 that was reserved for Plaintiff’s counsel’s fees paid to the other “aggrieved employees”.

1 “Aggrieved Employees” means all current and former non-exempt hourly employees in
2 California employed by AKM Oil, Inc., including Plaintiff, during the period from September 6, 2021
3 through March 1, 2024.
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5
6 DATED: February 5, 2025

DOWNTOWN LA LAW GROUP
A LIMITED LIABILITY PARTNERSHIP

7
8 By: _____


Liliuokalani H. Martin, Esq.
Attorneys for Plaintiff
RAUL ZARAGOZA

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1 of Plaintiff's PAGA claims including administration costs, attorney's fees and costs, and \$5,000.00
2 enhancement award to Plaintiff for bringing the PAGA claim. 40%, or \$60,000, of the total settlement
3 amount will be paid to Plaintiff's counsel for attorney's fees. Costs incurred in litigating the PAGA
4 claim is to not exceed \$20,000, Plaintiff's counsels current costs are \$8,602.28. The remaining
5 \$11,397.72 allocated for Plaintiff's counsel's costs should be added to the amounts to be paid to the
6 aggrieved employees. Costs to the settlement administrator will not exceed \$5,000. The Parties have
7 agreed to ILYM Group as the settlement administrator. The Parties agreed to allocate to the resolution
8 of Plaintiff's PAGA claim as brought forth in this action, with Seventy-Five Percent (75%), or
9 \$45,000.00, allocated for PAGA paid directly to the California Labor and Workforce Development
10 Agency ("LWDA"), and Twenty-Five Percent (25%), or \$15,000 + \$11,397.72 that was reserved for
11 Plaintiff's counsel's fees paid to the other 38 "aggrieved employees." The PAGA settlement is
12 contingent upon this Court's approval of the PAGA settlement portion.

13 6. In the Settlement Agreement, the parties agreed that "Aggrieved Employees" means
14 all current and former nonexempt hourly employees who worked in California employed by AKM Oil,
15 Inc., including Plaintiff, during the period from September 6, 2021 through March 1, 2024. The
16 proposed settlement shall be submitted to the Labor and Workforce Development
17 Agency ("LWDA") while it is submitted to the Court, and the LWDA is being served with this motion.
18 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and
19 correct. Executed on February 5, 2025, at Los Angeles, California.

20 
21 _____
22 Liliuokalani H. Martin
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Journal Technologies Court Portal

Make a Reservation

RAUL ZARAGOZA, vs AKM OIL CO, INC., A CORPORATION, et al.

Case Number: 22STCV35779 Case Type: Civil Unlimited Category: Wrongful Termination

Date Filed: 2022-11-10 Location: Stanley Mosk Courthouse - Department 56

Reservation

Case Name:

RAUL ZARAGOZA, vs AKM OIL CO, INC., A CORPORATION, et al.

Case Number:

22STCV35779

Type:

Motion re: (Motion to Approve PAGA Settlement)

Status:

RESERVED

Filing Party:

Raul Zaragoza (Plaintiff)

Location:

Stanley Mosk Courthouse - Department 56

Date/Time:

04/17/2025 8:30 AM

Number of Motions:

1

Reservation ID:

760754820917

Confirmation Code:

CR-MBAN768ZZYGCKBPEF

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](#)

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 612 S. Broadway, Los Angeles, CA 90014.

On, February 5, 2025 I served the foregoing document described as: **PLAINTIFF RAUL ZARAGOZA'S NOTICE OF MOTION AND MOTION TO APPROVE PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF LILIUOKALANI H. MARTIN; [PROPOSED] ORDER LAINIFF NOTICE OF MOTION AND MOTION TO APPROVE PAGA SETTLEMENT** on the interested parties in this action as follows:

Matthew Richardson M.Richardson@musickpeeler.com Musick, Peeler & Garrett LLP 333 South Hope Street, Suite 2900 Los Angeles, California 90071-3048	<i>Attorneys for Defendant/s:</i> AKM OIL CO, INC. & PAOLA ALFARO
California Labor & Workforce Development Agency Attn. PAGA Administrator 1515 Clay Street, Ste. 801 Oakland, CA 94612 (VIA ELECTRONIC SERVICE ONLY)	

- ☒ BY ELECTRONIC MAIL: I caused said document(s) to be transmitted to the email address(es) of the addressee(s) designated pursuant to CCP § 1010.6.I served true and correct copies of the above-listed documents via electronic mail to each email address listed above, and served the documents from my electronic service address, which is gabriela@downtownlalaw.com
- ☒ BY ELECTRONIC SERVICE: Pursuant to SB 836, I electronically filed a copy of the document with California Labor & Workforce Development Agency Only.
- ☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 05, 2025, at Los Angeles, California.

Gabriela Diaz

Gabriela Diaz