

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: Edward W. Choi, Esq. (SBN 211334) FIRM NAME: Law Offices of Choi & Associates, APLC STREET ADDRESS: 515 S. Figueroa Street, Suite 1250 CITY: Los Angeles STATE: CA ZIP CODE: 90071 TELEPHONE NO.: 213-381-1515 FAX NO.: 213-465-4885 EMAIL ADDRESS: edward.choi@choiandassociates.com ATTORNEY FOR (name): Plaintiff JAMES GUIFFRE SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 North First Street MAILING ADDRESS: CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME: Downtown	FOR COURT USE ONLY
PLAINTIFF/PETITIONER: James Guiffre DEFENDANT/RESPONDENT: Bi-Rite Restaurant Supply Co., Inc.	
NOTICE OF ENTRY OF JUDGMENT OR ORDER (Check one): ☒ UNLIMITED CASE (Amount demanded exceeded \$35,000) ☐ LIMITED CASE (Amount demanded was \$35,000 or less)	CASE NUMBER: 22CV402169

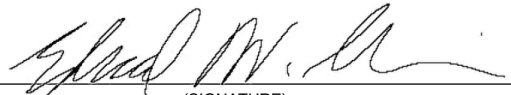
TO ALL PARTIES :

1. A judgment, decree, or order was entered in this action on (date): April 18, 2025
2. A copy of the judgment, decree, or order is attached to this notice.

Date: April 21, 2025

Edward W. Choi

 (TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)



 (SIGNATURE)

PLAINTIFF/PETITIONER: James Guiffre
 DEFENDANT/RESPONDENT: Bi-Rite Restaurant Supply Co., Inc.

CASE NUMBER:
 22CV402169

**PROOF OF SERVICE BY FIRST-CLASS MAIL
 NOTICE OF ENTRY OF JUDGMENT OR ORDER**

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (*specify*):
 515 S. Figueroa St. Suite 1250, Los Angeles, CA 90071

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and (*check one*):
 - a. ☒ deposited the sealed envelope with the United States Postal Service.
 - b. ☐ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Entry of Judgment or Order* was mailed:
 - a. on (*date*): April 21, 2025
 - b. from (*city and state*): Los Angeles, CA

4. The envelope was addressed and mailed as follows:

a. Name of person served: Conor J. Dale / JACKSON LEWIS P.C. Street address: 50 California Street, 9th Floor City: San Francisco State and zip code: CA 94111 b. Name of person served: Street address: City: State and zip code:	c. Name of person served: Street address: City: State and zip code: d. Name of person served: Street address: City: State and zip code:
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☐ Names and addresses of additional persons served are attached. (*You may use form POS-030(P).*)

5. Number of pages attached: 9

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

Date: April 21, 2025

Jacqueline Park

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

JAMES GUIFFRE, as an individual and on behalf of all others similarly situated,	)	Case No.: 22CV402169
	)	
Plaintiff,	)	
	)	ORDER GRANTING PLAINTIFF’S
v.	)	MOTION FOR APPROVAL OF PAGA
	)	SETTLEMENT
	)	
BI-RITE RESTAURANT SUPPLY CO., et	)	
al.,	)	
	)	
Defendants.	)	

This is a representative action under the Private Attorneys General Act (“PAGA”).
Plaintiff James Guiffre (“Plaintiff”) alleges Defendant Bi-Rite Restaurant Supply Co.
(“Defendant”) committed various wage and hour violations and seeks PAGA penalties for those
violations. Before the court is Plaintiff’s motion for approval of the PAGA settlement.

I. BACKGROUND

According to the allegations of the first amended complaint (“FAC”), Defendant
employed Plaintiff as a Sales Representative from approximately April 1, 2018 until October 1,
2021. (FAC, ¶ 4.) Plaintiff alleges Defendant failed to pay all minimum and overtime wages
owed; failed to provide rest breaks; failed to provide accurate itemized wage statements; and
failed to pay vacation wages.

ORDER GRANTING PLAINTIFF’S MOTION FOR APPROVAL OF PAGA SETTLEMENT

1 Based on these allegations, Plaintiff filed a complaint on August 19, 2022. On October
2 23, 2024, Plaintiff filed the FAC, alleging a single cause of action for PAGA penalties. On
3 March 25, 2025, Plaintiff filed a motion for approval of the representative PAGA settlement.

4 **II. LEGAL STANDARDS FOR PAGA SETTLEMENT APPROVAL**

5 Labor Code section 2699, subdivision (s)(2) provides that “[t]he superior court shall
6 review and approve any settlement of any civil action filed pursuant to” PAGA. (Lab. Code, §
7 2699, subd. (s)(2).) The court’s review “ensur[es] that any negotiated resolution is fair to those
8 affected.” (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549, citing former Lab. Code, §
9 2699, subd. (l)(2)¹.) Seventy-five percent of any penalties recovered under PAGA go to the
10 Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-five percent
11 for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59
12 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v. Moriana* (2022)
13 596 U.S. 639.)

14 Similar to its review of class action settlements, the court must “determine independently
15 whether a PAGA settlement is fair and reasonable,” to protect “the interests of the public and the
16 LWDA in the enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72
17 Cal.App.5th 56, 76-77, disapproved of on another ground in *Turrieta v. Lyft, Inc.* (2024) 16
18 Cal.5th 664, 710.) It must make this assessment “in view of PAGA’s purposes to remediate
19 present labor law violations, deter future ones, and to maximize enforcement of state labor laws.”
20 (*Id.* at p. 77; see also *Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383 F. Supp. 3d
21 959, 971 [“when a PAGA claim is settled, the relief provided for under the PAGA [should] be
22 genuine and meaningful, consistent with the underlying purpose of the statute to benefit the
23
24

25 ¹ The court notes that the contents of Labor Code section 2699, subdivision (s)(2), used to
be located in Labor Code section 2699, subdivision (l)(2).

public . . .”], quoting LWDA guidance discussed in *O’Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O’Connor*).

The settlement must be reasonable in light of the potential verdict value. (See *O’Connor*, *supra*, 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential verdict].) But a permissible settlement may be substantially discounted, given that courts often exercise their discretion to award PAGA penalties below the statutory maximum even where a claim succeeds at trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 U.S. Dist. LEXIS 140759, at pp. 8-9.)

III. PLAINTIFF’S INVESTIGATION AND SETTLEMENT PROCESS

On August 18, 2022, Plaintiff submitted written notice under Labor Code section 2699.3 to the LWDA. (See Declaration of Larry W. Lee (“Lee Decl.” or “Lee Declaration”), ¶ 2; Plaintiff’s Notice of Motion and Motion to Approve Settlement Agreement Pursuant to PAGA (“MPA”), pp. 1:26-2:3.) On July 20, 2023, Plaintiff filed an amended PAGA notice to the LWDA. (MPA, p. 2:3-4.) On August 19, 2022, Plaintiff filed a class action complaint against Defendant, alleging violations of Labor Code sections 201 through 204, 226.2, 226.7, 227.3, 510, 558, 1194, 1197, and 1197.1 and Business and Professions Code section 17200. (MPA, p. 2:5-8; Lee Decl., ¶ 3.) On October 23, 2024, Plaintiff filed the FAC, alleging PAGA violations. (MPA, p. 2:9-11, Lee Decl., ¶ 4.)

Plaintiff propounded interrogatories and a request for production of documents on Defendant. (MPA, p. 2:12-13; Lee Decl., ¶ 5.) After service of written discovery, the parties agreed to engage in mediation before the Hon. Kevin Murphy on February 14, 2023. (Lee Decl., ¶ 5.) After a full day of mediation, the case settled only on an individual basis for Plaintiff’s wrongful termination claims. (*Ibid.*) The parties conducted a second mediation for the representative PAGA claims with Judge Murphy on July 20, 2023. (*Id.* at ¶ 6.) The case did not settle. (*Ibid.*) After another year of litigation, including Plaintiff filing a motion for leave to

1 amend and Defendant filing a motion to stay, the Parties agreed to a third mediation with
2 Michael Loeb, Esq. on October 17, 2024. (*Id.* at ¶ 7.) In connection with the mediation,
3 Defendant’s counsel provided Plaintiff’s Counsel with information regarding the number of pay
4 periods at issue. (*Id.* at ¶ 8.) After a third mediation and second full day of arm’s-length
5 negotiations regarding the PAGA claims, the parties were able to reach a settlement. (*Ibid.*) The
6 parties subsequently executed the settlement agreement (the “Settlement Agreement”). (*Id.* at ¶
7 9, Ex. B.) In connection with this third mediation, Defendant’s counsel provided Plaintiff’s
8 counsel with information regarding the number of pay periods where 1) commission wages were
9 paid and (2) wage statements that included the foregoing payments. (*Id.* at ¶ 10.)

10 **IV. SETTLEMENT PROVISIONS**

11 The gross settlement amount is \$100,000. (Lee Decl., Ex. B. at § II.A.8.) Attorney’s
12 fees of up to \$33,333.33 (one-third of the gross settlement), litigation costs not to exceed
13 \$25,000, and administration costs not to exceed \$2,250, will be paid from the gross settlement.
14 (MPA, p. 1:13-20; Lee Decl., Ex. B at § II.B.2.) The “PAGA Settlement Fund” means the Gross
15 Settlement amount “minus the sum of: (1) Attorney’s Fees; (2) Attorney’s Costs; (3) Named
16 Plaintiff Service Award; and (4) the Settlement Administration Costs.” (Lee Decl., Ex. B at §
17 II.A.12.) 75% of the PAGA Settlement Fund will be paid to the LWDA, with the remaining
18 25% distributed to “Aggrieved Employees,” who are defined as “all individuals who were paid
19 commission wages from Defendant in the State of California from August 19, 2021 through
20 December 7, 2024.” (*Id.* at §§ II.A.2, II.B.2.)

21 “Upon the Effective Date, Plaintiff, on behalf of himself, the State of California, and all
22 Aggrieved Employees, releases the Released Parties from the Released Claims. This release shall
23 be effective for the entire Settlement Period.” (Lee Decl., Ex. B at § II.B.3.) The settlement
24 agreement defines “Released Claims” as “a release from the State of California and Aggrieved
25 Employees of claims under PAGA that were alleged, or reasonably could have been alleged,

1 based factual allegations stated in the Operative Complaint and/or the LWDA Notice which
2 occurred during the PAGA Period, including but not limited to claims for the failure to timely
3 pay owed minimum, regular, and overtime wages, claims for failing to provide timely, duty free
4 meal periods and rest periods and claims for owed meal and rest period premiums, claims for
5 failure to pay all owed wages at termination, claims for unpaid vacation wages, claims for failing
6 to accurately maintain and provide accurate time, payroll and wage statement records, and claims
7 for related penalties and including claims for alleged violations of California Labor Code §§ 201-
8 204, 226, 226.2, 227.3, 1194, 1197 and 1197.1, 510, 512, 558, 1174, 1194, 1197, 1197.1 and
9 2699 et seq. and claims for violation of relevant Industrial Welfare Commission Wage Orders.”
10 (*Id.* at § II.A.13.)

11 The foregoing releases are appropriately tailored to the allegations at issue. (See *Amaro*
12 *v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.)

13 **V. FAIRNESS OF THE SETTLEMENT**

14 “At the time of the third mediation, there were approximately 56 aggrieved employees
15 that worked a total of 3,278 pay periods.” (Lee Decl., ¶ 11.) According to Plaintiff,
16 “Defendant’s potential exposure could be as high as \$658,400.00 if the Court were to award a
17 \$100 penalty for each pay period encompassed by the proposed settlement for each of the
18 violations alleged. Specifically, there were approximately 3,278 pay periods wherein
19 commission wages were paid, but non-productive time such as rest period wages and overtime
20 wages were not paid during same pay period, which amounts to a maximum exposure of
21 \$327,800.00. There were 3,278 wage statements issued to aggrieved employees that contained
22 one of the foregoing payments, which amounts to a maximum exposure of \$327,800. Finally,
23 there were approximately 28 formerly employee aggrieved employees which amounts to a
24 maximum exposure of \$2,800.00 for PAGA penalties predicated on waiting time penalties.”
25 (*Ibid.*)

1 Plaintiffs also notes that that Defendant argued that “even if Plaintiff prevailed, the
2 recoverable penalties under PAGA are minimal. Indeed, courts to consider the issue have
3 refused to ‘stack’ PAGA penalties and often significantly reduce the penalties awarded. If
4 penalties were not ‘stacked,’ the total amount of exposure would amount to \$327,800. . . . If the
5 Court in this case were to reduce penalties to \$5 a pay period, as was approved in [*Carrington v.*
6 *Starbucks Corporation* (2018) 30 Cal.App.5th 504], the potential exposure amounts to
7 approximately \$32,920.00 (5% of \$658,400).” (Lee Decl., ¶ 12.)

8 Considering the various rationales provided by Plaintiff, the settlement, which represents
9 approximately 15% (with stacking) of the maximum potential PAGA penalties, achieves a good
10 result for the aggrieved employees. (See MPA, p. 8:23-26.)

11 While the PAGA statute does not expressly require judicial review of claimed attorney
12 fees, the court believes it cannot adequately fulfill its statutory duty to review the penalties
13 associated with PAGA settlements without also considering attorney fees. The court thus finds
14 that it must scrutinize the attorney fee arrangement associated with a PAGA settlement. This is
15 consistent with the observation of many courts that PAGA claims are analogous to “qui tam”
16 suits like those under the federal False Claims Act: when reviewing settlements of qui tam
17 claims, courts should and do consider any associated attorney fee arrangement. (See *U.S. v.*
18 *Texas Instruments Corp.* (9th Cir. 1994) 25 F.3d 725, 728 [attorney fee award must be
19 considered by the trial court as part of its review of the “entire settlement arrangement”].)

20 Plaintiff’s counsel seeks a fee award of \$33,333.33 (one-third of the gross settlement
21 amount). (MPA, p. 10:3-7; Lee Decl., Ex. B at § II.B.2.) Counsel Larry W. Lee submits
22 evidence of a lodestar of \$32,940, based on a total of 31.6 hours billed at a rate of \$900 per hour.
23 (Lee Decl., ¶¶ 14-15, Ex. C.) Counsel Edward W. Choi submits evidence of a lodestar of
24 \$89,950, based on a total of 85.5 hours billed at a rate of \$900 per hour. (Declaration of Edward
25 W. Choi (“Choi Decl.”), ¶¶ 6-7, Ex. A.) Counsel Dennis S. Hyun requests \$50,760 based on a

1 total of 46.4 hours billed at a rate of \$900 per hour. (Declaration of Dennis S. Hyun (“Hyun
2 Decl.”), ¶¶ 9-11.)² The benefits achieved by the settlement justify an award of attorney fees to
3 Plaintiff’s counsel, and the court finds that the requested attorney fee award is reasonable,
4 especially given that the total lodestar amount for Plaintiff’s counsel exceeds the fee requested.
5 Therefore, the court approves an attorney fees award in the amount of \$33,333.33. (See *Laffitte*
6 *v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 487, 503-504 [trial court did not abuse its
7 discretion in approving fee award of 1/3 of the common fund, cross-checked against a lodestar
8 resulting in a multiplier of 2.03 to 2.13]; *Wershba v. Apple Computer, Inc.* (2001) 91
9 Cal.App.4th 224, 255 [“[m]ultipliers can range from 2 to 4 or even higher”], disapproved of on
10 other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260; *Vizcaino v.*
11 *Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051, fn. 6 [stating that multipliers ranging from
12 one to four are typical in common fund cases and citing the court’s own survey of large
13 settlements finding “a range of 0.6-19.6, with most (20 of 24, or 83%) from 1.0-4.0 and a bare
14 majority (13 of 24, or 54%) in the 1.5-3.0 range”].)

15 Plaintiff’s counsel requests reimbursement of litigation costs in the amount of
16 \$17,351.08. (See Lee Decl., ¶ 16, Ex. D; Choi Decl., ¶ 8, Ex. B.) The court finds the requested
17 amount to be reasonable and approves litigation costs in the amount of \$17,351.08. The
18 settlement administration costs are also approved in the requested amount of \$2,250, which is the
19 maximum set by the agreement. (Lee Decl., Ex. B at § II.B.2.) A representative from Phoenix
20 Administrators submits evidence from the proposed settlement administrator supporting an
21 award in the amount requested. (See Declaration of Jodey Lawrence, Ex. B.)

22 A PAGA case is a representative action like a class action, and courts have recognized
23 that an individual’s willingness to act as a private attorney general may merit a service award.
24

25 ² On March 28, 2025, Plaintiff submitted an errata to the Hyun Declaration providing evidence of hours billed.

1 (See *Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 959.) Plaintiff has
2 submitted a declaration describing his participation in this litigation, and Plaintiff estimates he
3 spent at least 40 hours working on this litigation. (See Declaration of James Guiffre, ¶¶ 1-7.)
4 The court also acknowledges that Plaintiff has undertaken risk by attaching his name to this case
5 because doing so could impact his future employment. (See *Covillo v. Specialty's Café* (N.D.
6 Cal. 2014) 2014 U.S.Dist.LEXIS 29837, at p. 29 [incentive awards are particularly appropriate
7 where a plaintiff undertakes a significant “reputational risk” in bringing an action against an
8 employer].) The court approves a service award of \$5,000 to Plaintiff.

9 VI. ADMINISTRATION PROCESS

10 “Within fourteen (14) calendar days following the Funding of the Settlement, the
11 Settlement Administrator shall issue from the Settlement Fund Account, Individual Settlement
12 Payments based on the twenty-five percent (25%) of the PAGA Settlement Fund to Aggrieved
13 Employee Settlement Administrator will perform a search based on the National Change of
14 Address Database for information to update and correct for any known or identifiable address
15 changes. Any checks returned as non-deliverable on or before the Void Date will be sent
16 promptly via regular First Class U.S. Mail to the forwarding address affixed thereto. If no
17 forwarding address is provided, the Settlement Administrator will promptly attempt to determine
18 the correct address using a skip trace, or other search using the name, address or Social Security
19 number of the Aggrieved Employee involved, and will then perform a single re-mailing. Any
20 check re-mailings will not extend the 180-day period to cash a check. Any checks issued to
21 Aggrieved Employees shall remain valid and negotiable for one hundred and eighty (180)
22 calendar days from the date of their issuance and then shall become void on the 181st day after
23 issuance, i.e., the Void Date. All checks not cashed within 180 days of payment shall be paid to
24 the State Controller Unclaimed Property Fund in the name of the individual who failed to cash
25

1 their check.” (See Lee Decl., Ex. B at § II.C.12.) These notice procedures are appropriate and
2 are approved.

3 **VII. CONCLUSION AND ORDER**

4 Plaintiff’s motion for approval of the PAGA settlement is GRANTED. The Aggrieved
5 Employees are: all individuals who were paid commission wages from Defendant in the State of
6 California from August 19, 2021 through December 7, 2024.

7 Judgment shall be entered through the filing of this order and judgment. (Code Civ.
8 Proc., § 668.5.) Plaintiff and the Aggrieved Employees shall take from the PAGA claim in their
9 FAC only the relief set forth in the settlement agreement and this order and judgment. The court
10 retains jurisdiction over the parties to enforce the terms of the PAGA settlement agreement and
11 the final order and judgment.

12 The Court sets a compliance hearing for November 13, 2025 at 2:30 p.m. in Department
13 7. At least ten court days before the hearing, Plaintiff’s counsel and the settlement administrator
14 shall submit a summary accounting of the net settlement fund identifying distributions made as
15 ordered herein; the number and value of any uncashed checks; amounts remitted to the California
16 State Controller’s office; the status of any unresolved issues; and any other matters appropriate to
17 bring to the Court’s attention. Counsel may appear at the compliance hearing remotely.

18 The Case Management Conference scheduled for April 17, 2025 is VACATED.

19
20 Dated: April 18, 2025


CHARLES F. ADAMS
Judge of the Superior Court

PROOF OF SERVICE

I am employed in the County of Los Angeles; I am over the age of 18 years and not a party to the within action; my business address is 515 S. Figueroa St. Suite 1250, Los Angeles, California 90071.

On April 21, 2025, I served the foregoing document(s) described as: **NOTICE OF ENTRY OF JUDGMENT OR ORDER**, on the interested parties in this action by placing a true copy thereof, in a sealed envelope(s) addressed as follows:

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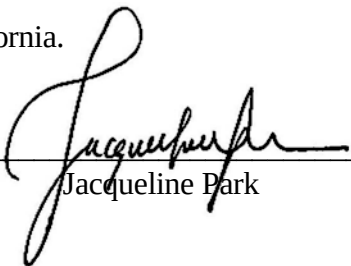
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 X **BY ELECTRONIC SERVICE**

I caused such document to be uploaded to Odyssey to be served on the offices of the addressees.

 X **(State)** I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 21, 2025, at Los Angeles, California.



Jacqueline Park