

Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Max W. Gavron (State Bar No. 291697)
mgavron@diversitylaw.com
Kwanporn “Mai” Tulyathan (State Bar No. 316704)
ktulyathan@diversitylaw.com
Christine S. Lee (State Bar No. 339947)
christine@diversitylaw.com
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder (SBN 170131)
bill@polarislawgroup.com
POLARIS LAW GROUP
501 San Benito Street, Suite 200
Hollister, CA 95023
Telephone: (831) 531-4214
Facsimile: (831) 634-0333

Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO**

MICHAEL CONNER, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

RED WING BRANDS OF AMERICA,
INC., a Minnesota corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 22CIV03830

[Assigned for all purposes to the Hon. V. Raymond
Swope, Department 23]

**RS
[PROPOSED] ORDER AND JUDGMENT**

Date: August 12, 2024
Time: 3:00 P.M.
Dept.: 23

Action Filed: September 20, 2022
Trial Date: Not Set

Electronically
FILED

By Superior Court of California, County of San Mateo
ON 08/21/2024

By /s/ Tovar, Priscilla
Deputy Clerk

Electronically
RECEIVED
8/12/2024

CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

1 Plaintiff's Unopposed Motion to Approve Settlement is GRANTED. This case arises out
2 of the employment relationship between Plaintiff Michael Conner ("Plaintiff"), on behalf of
3 himself and other aggrieved employees, and Defendant Red Wing Brands of America, Inc.
4 ("Defendant"). Plaintiff was employed by Defendants from approximately November of 2021 to
5 August 11, 2022. Plaintiff alleges that while he was employed with Defendant, Defendant failed
6 to: (1) provide accurate and complete wage statements in violation of Labor Code § 226; (b) pay
7 meal and rest period premium at the regular rate of pay in violation of Labor Code §§ 226.7 and
8 512; and (c) pay sick pay at the regular rate of pay and pay all final wages owed in violation of
9 Labor Code §§ 201–204 and 246. Plaintiff alleged these violations of the Labor Code as the basis
10 for bringing a single cause of action for civil penalties pursuant to the Private Attorneys General
11 Act of 2004. Plaintiff now moves this Court to approve a proposed settlement of this matter.
12 Pursuant to the Private Attorneys General Act of 2004 ("PAGA"), codified at Labor Code §
13 2698, et seq., an employee aggrieved by their employer's alleged Labor Code violations may be
14 authorized to act as an agent of the Labor Workforce and Development Agency ("LWDA") to
15 bring an action to receive civil penalties. *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56,
16 64. If the aggrieved employee seeks to settle their claims, then the trial court must review and
17 approve the settlement. *Ibid.* Per statutory requirements, the LWDA receives 75 percent of the
18 settlement and the aggrieved employees receive the remaining 25 percent. *Ibid.* (citing Lab.
19 Code, § 2699, subds. (i), (l)(2)).

20 PAGA was enacted to allow private individuals to litigate wage and labor violations and
21 to recover civil penalties on behalf of the state, given the underfunding and understaffing of labor
22 law enforcement agencies. *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 74 (quoting
23 *Arias v. Superior Ct.* (2009) 46 Cal.4th 969, 980). Every PAGA action constitutes an action
24 between the employer and the state and can be distinguished from an employee's suit for
25 damages and other statutory penalties. *Ibid.* (quoting *Kim v. Reins Internat. Cal., Inc.* (2020) 9
26 Cal.5th 73, 81; *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 386).
27 Unfortunately, there has been a dearth of binding authority on the legal standard used to review a
28 PAGA settlement. *Flores v. Starwood Hotels & Resorts Worldwide (C.D.Cal. 2017) 253*

1 F.Supp.3d 1074, 1075. Borrowing the legal standard of “fair, adequate, and reasonable” utilized
2 in class settlement approvals, the Court of Appeals held that reviewing a PAGA settlement
3 should be evaluated for fairness and reasonableness. *Moniz v. Adecco USA, Inc.* (2021) 72
4 Cal.App.5th 56, 76. The factors used to evaluate class settlements, such as the strength of the
5 plaintiff’s case, risks and complexities involved in continuing litigation, the current stage of the
6 litigation, and the settlement amount are all useful in determining whether a PAGA settlement is
7 fair or not. *Ibid.* Aside from the fair and reasonable standard, courts should also evaluate a
8 PAGA settlement to determine whether it satisfies PAGA’s legislative purposes. *Moniz v.*
9 *Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77 (citing *O’Connor v. Uber Technologies, Inc.*
10 (N.D.Cal. 2016) 201 F.Supp.3d 1110, 1132–1134). Therefore, the Court of Appeal also held that
11 a trial court must evaluate whether a PAGA settlement is “fair, reasonable, and adequate in view
12 of PAGA’s purposes to remediate present labor law violations, deter future ones, and to
13 maximize enforcement of state labor laws.” *Ibid.* (citing *Williams v. Superior Ct.* (2017) 3
14 Cal.5th 531, 546; *Arias v. Superior Ct.* (2009) 46 Cal.4th 969, 980).

15 Based upon the settlement agreement set forth in Exhibit B attached to the Declaration of
16 Max W. Gavron (“Gavron Decl.”), this Court finds that the proposed settlement is “fair,
17 reasonable, and adequate” in light of PAGA’s statutory purposes. Plaintiff’s moving papers
18 carefully calculates the value of the settlement fund against the risks of continued litigation and
19 Defendant’s potential maximum liability. The gross settlement of \$155,000.00 represents
20 approximately 18.84 percent of Defendant’s total exposure, which is not unreasonable given that
21 neither party has fully litigated the merits of their claims and because PAGA’s statutory purpose
22 is not to remediate aggrieved employees’ damages but rather to deter Labor Code violations.
23 Plaintiff’s counsel also fully describes the defenses that Defendant continues to assert, which are
24 not without merit, and may have resulted in a legal and factual finding of little to no liability.

25 All proper notice has been given to the Labor Workforce & Development Agency to
26 apprise them of ongoing developments in this case. Attorney’s fees approximating a little under
27 33 percent of the gross settlement fund are not unreasonable. See *Laffitte v. Robert Half Internat.*
28 *Inc.* (2016) 1 Cal.5th 480, 503. The expenditure of \$4,500.00 for the thirdparty settlement

1 administrator is also not unreasonable given the nature of their services. The payment of a
2 \$10,000.00 incentive award is rooted in sound policy goals of encouraging employees to report
3 potential Labor Code violations and to compensate the named plaintiff for the time spent in
4 assisting counsel in litigating this matter, and is therefore not unreasonable in this matter. The
5 request for reimbursement of litigation funds is not excessive given that Plaintiff's counsel has
6 expended over 50 hours on this matter, which included engaging in arm's length negotiation
7 with opposing counsel. Accordingly, this Court does not find a basis for denying the proposed
8 settlement agreement.

9
10 **IT IS SO ORDERED.**

11
12 DATED: 08/19/2024

Electronically

SIGNED

By /s/ Swope, Raymond

13 HON. V. RAYMOND SWOPE
14 SUPERIOR COURT OF CALIFORNIA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

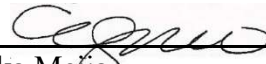
I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On August 12, 2024, I served the following document(s) described as: **[PROPOSED] ORDER AND JUDGMENT** on the interested parties in this action as follows:

Soojin Kang O'Hagan Meyer 550 S. Hope St., Ste. 2400 Los Angeles, CA 90071	<i>Attorneys for Defendant Red Wing Brands of America, Inc.</i> skang@ohaganmeyer.com
Dept23@sanmateocourt.org complexcivil@sanmateocourt.org	<i>San Mateo Superior Court</i>

 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 12, 2024, at Los Angeles, California.



Erika Mejia