

CHRISTIAN J. PETRONELLI, SBN 284522
christian@petronellilaw.com
MITCHEL D. VANDERPOOL, SBN 341146
mitch@petronellilaw.com
PETRONELLI LAW GROUP, PC
5826 E. Naples Plaza
Long Beach, California 90803
Telephone: (888) 855-3670
Facsimile: (888) 449-9675

Attorneys for Plaintiff
ANDREA CAMPOS
and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES (STANLEY MOSK COURTHOUSE)

ANDREA CAMPOS, an individual and on
behalf of all aggrieved employees,

Plaintiff,

v.

LUCKY TARO, INC., a California
Corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 23STCV11801
Judge: Hon. Theresa M. Traber
Dept.: 47

**PLAINTIFF'S *AMENDED* MOTION FOR
APPROVAL OF PRIVATE ATTORNEY
GENERAL ACT SETTLEMENT**

[filed concurrently with *AMENDED*
DECLARATION OF CHRISTIAN J.
PETRONELLI, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION FOR APPROVAL
OF PRIVATE ATTORNEY GENERAL
ACT SETTLEMENT and
[PROPOSED] ORDER GRANTING
APPROVAL OF PAGA SETTLEMENT]

Date: April 24, 2025
Time: 9:00am
Dept.: 47

Res. ID: 554973317460

1 **I. Introduction**

2 Plaintiff Andrea Campos (“Campos”) with the consent of Defendant Lucky Taro, Inc.
3 (“Defendant”) (collectively referred to as the “Parties”), submits this Motion and seeks the Court’s
4 approval, pursuant to Labor Code section 2699(l), of a settlement of Plaintiff’s claim under the
5 Private Attorneys General Act (Labor Code Section 2698, *et. seq.*) (“PAGA”), as described more
6 fully below in the PAGA Settlement Agreement and Release of Claims (“Settlement Agreement”).

7 The proposed settlement reflected in the Settlement Agreement is fair, reasonable, and
8 adequate, and in the best interests of the PAGA class and the State of California. (*See* Petronelli
9 Decl., ¶¶ 19-20.) Consequently, Plaintiff, with the consent of Defendant, hereby moves this Court
10 for an order: (1) granting approval of the proposed PAGA settlement, as embodied in the Settlement
11 Agreement, and (2) approving the PAGA notice to be sent to the PAGA class. For the reasons
12 explained below, the Parties respectfully request that the Court approve the Settlement.

13 **I. FACTS & PROCEDURAL HISTORY**

14 **A. Procedural History**

15 On May 24, 2023, Plaintiff filed the instant PAGA action alleging various violations of the
16 Labor Code for failing to properly calculate all hours worked by Plaintiff and Aggrieved Employees;
17 for failing to pay Plaintiff and Aggrieved Employees overtime in violation of Labor Code §§ 510,
18 1194 and 1198; for failing to pay Plaintiff and other Aggrieved Employees in timely, lawful intervals
19 as required by Labor Code § 204; for failing to provide required duty-free meal periods to Plaintiff
20 and other Aggrieved Employees in violation of Labor Code §§ 226.7 and 512; for failing to pay
21 Plaintiff and other Aggrieved Employees the additional hour of compensation earned for every shift
22 that a mandated meal period was denied – in violation of Labor Code § 226.7; for failing to
23 authorize/permit required rest periods to Plaintiff and other Aggrieved Employees, in violation of
24 Labor Code § 226.7; for failing to pay Plaintiffs and other Aggrieved Employees the additional hour
25 of compensation earned for every shift that a mandated rest period was denied, in violation of Labor
26 Code § 226.7; for failing to provide accurate itemized wage statements in violation of Labor Code
27 §§ 226 to Plaintiff and Aggrieved Employees; for violating Labor Code § 1198; for failing to
28

1 maintain records in violation of Labor Code § 1174; for failing to pay wages promptly following the
2 termination or resignation of employment, or when due and payable, in violation of Labor Code §§
3 201, 202, 203 and 204; for failing to record statutorily mandated meal periods in violation of Labor
4 Code § 1198; and failing to pay wages in violation of Labor Code § 558. (Petronelli Decl. ¶ 9.)

5 On July 14, 2023, Defendant filed a Motion to Stay the PAGA proceedings pending the
6 outcome of the arbitration of Plaintiff's individual non-PAGA claims, which the Court granted on
7 September 26, 2023. (Petronelli Decl. ¶ 10.)

8 Following Plaintiff's deposition in the arbitration and exchanges of written discovery, the
9 Parties agreed to engage in settlement negotiations related to the PAGA claims and, in doing so,
10 Defendant agreed to provide Plaintiff with time and pay records for Aggrieved Employees employed
11 by Defendant during the PAGA period plus an additional fourteen (14) months, i.e., March 14, 2022
12 to May 19, 2024. (Petronelli Decl. ¶ 11.) Following review of all time and pay records, the Parties
13 engaged in prolonged negotiations and eventually agreed to settle the PAGA claims for \$120,000.
14 (Petronelli Decl. ¶ 12.) At all times the Parties' negotiations were adversarial and non-collusive.
15 (Petronelli Decl. ¶ 12.)

16 On December 21, 2024, the Parties entered into the Settlement Agreement. (Petronelli Decl.
17 ¶ 13, **Exhibit A**.) The Parties arrived at a settlement through extensive, arms-length negotiations,
18 taking into account all relevant factors, present and potential, at the time of entering into the
19 Settlement Agreement. (Petronelli Decl. ¶ 14.)

20 Plaintiff believes and agrees that this Settlement Agreement provides for a fair, adequate, and
21 reasonable resolution of the PAGA Claim. (Petronelli Decl., ¶ 14.) Defendant denies all of the
22 allegations in the Actions and denies that it has committed any misconduct, statutory or regulatory
23 violation, wrongdoing, or any other actionable conduct; however, as shown below Defendant wished
24 to avoid the risks and costs inherent in litigating a PAGA claim.

25 //
26

27
28 **B. Investigation of Claims**

Plaintiff reviewed extensive data, information, and documents in investigating the issues of liability and damages prior to the Parties engaging in settlement negotiations. (Petronelli Decl. ¶ 16.) Specifically, Defendant produced the following: (a) Defendant's employee handbook in effect during the PAGA Period; (b) Defendant's policies and procedures pertaining to minimum wages, overtime, meal breaks, rest breaks, and reimbursement of business expenses, which were in effect during the PAGA Period; (c) Plaintiff's personnel files; (d) Plaintiff's timekeeping and payroll records; (e) all timekeeping and payroll records for the entire PAGA pool of employees who worked the same position as Plaintiff and a sample of eleven (11) other employees employed in different positions for the time period of March 14, 2022 to May 19, 2024 for a total of approximately fifteen percent (15%) of the employees in the PAGA pool; and (f) information on the PAGA pool demographics including the total number of Aggrieved Employees during the PAGA Period, average hourly rate of pay, and the total number of workweeks and pay periods worked during the PAGA Period. (Petronelli Decl., ¶ 17.)

From Plaintiff's counsel's review of these documents and information, as well as the facts, strengths, and weaknesses of the case, the risks and delays posed by further litigation, and their own prior litigation experience, Plaintiff's counsel believes that the recovery for each Aggrieved employee is fair and reasonable taking into consideration the amounts received in other PAGA actions, the risks inherent in litigation of this genre, and the reasonable tailoring of each aggrieved employee's claim to the settlement award he or she will receive. (Petronelli Decl. ¶ 18.)

II. SETTLEMENT RESULTS

The material terms of the Settlement are as follows:

A. The Payment.

The Settlement Agreement provides for a gross settlement amount of One Hundred and Twenty Thousand Dollars (\$120,000.00) to settle the PAGA claims (the "Gross Settlement Amount"). (Petronelli Decl., ¶ 19, **Exhibit A.**) This Gross Settlement Amount is allocated as follows:

- \$54,375.00 to the LWDA Payment (75% of the Net Settlement Amount)
- \$18,125.00 to the PAGA Aggrieved Employee Payment (25% of the Net Settlement

Amount) to be divided among the Aggrieved Employees per the terms of the Settlement Agreement

- PAGA Counsel Attorneys' Fees not to exceed \$40,000.00
- PAGA Counsel Costs not to exceed \$2,500.00
- Settlement Administration Costs, not to exceed \$5,000.00

(Petronelli Decl., **Exhibit A**, I (L), (O), and III (A).) According to Defendant, the total number of Aggrieved Employees is one hundred sixty-one (161) employees.

Based on Plaintiff's counsel's experience and based on the potential maximum exposure and potential defenses, counsel believes and agrees that the Settlement Agreement provides for a fair, adequate, and reasonable resolution of the PAGA Claims. (Petronelli Decl. ¶ 20.)

B. Notice To The LWDA.

On March 10, 2023, Plaintiff submitted a PAGA letter to the LWDA notifying the LWDA of the PAGA claims in this Action. (Petronelli Decl. ¶ 21, **Exhibit B**.) No response was received from the LWDA. (Petronelli Decl. ¶ 21.)

On December 30, 2024, Plaintiff submitted the PAGA Complaint to the LWDA and submitted the Settlement Agreement, as well as these moving papers to the LWDA, on April 1, 2025. (Petronelli Decl. ¶ 22, 23.) Plaintiff gave notice of the instant Motion and hearing date to the LWDA on April 1, 2025 via online filing. (Petronelli Decl., ¶ 23.)

III. THE SETTLEMENT IS FAIR AND REASONABLE

A. Standard of review

Labor Code § 2699(l)(2) states that "the superior court shall review and approve any settlement of any civil action filed pursuant to this part."

1. The Purposes and Policies of PAGA

PAGA was passed because the Legislature believed it necessary "to achieve maximum compliance with state labor laws" and "to ensure an effective disincentive for employers to engage in unlawful and anticompetitive business practices." (2003 Cal. Legis. Serv. Ch. 906 § (1)(a).) The Legislature found that, while self-policing efforts have had some success, "in other cases the only

1 meaningful deterrent to unlawful conduct is the vigorous assessment and collection of civil penalties
2 as provided in the Labor Code.” *Id.* at § 1(b).

3 Through PAGA, the Legislature thus: (1) sought to “enlist[] willing citizens in the task of
4 private enforcement,” *Iskanian*, 59 Cal. 4th at 390; (2) “deputized” aggrieved employees to sue on
5 behalf of the State to enforce state labor laws; and (3) authorized them to recover civil penalties,
6 attorney’s fees, and costs. 2003 Cal. Legis Serv. Ch. 906 (Legislative Counsel’s Digest). In bringing
7 a PAGA action, “[t]he employee-plaintiff acts as the proxy or agent of the state labor enforcement
8 agencies representing the same legal right and interest as those agencies...” *Iskanian*, 59 Cal. 4th at
9 394.

10 As for the LWDA (in whose shoes Plaintiffs stand), its top enforcement priorities are “to
11 vigorously enforce minimum labor standards in order to ensure employees are not required or
12 permitted to work under substandard unlawful conditions...” and to “protect employers who comply
13 with the law from those who attempt to gain a competitive advantage at the expense of their workers
14 by failing to comply with minimum labor standards.” (Labor Code § 90.5(a).)

15
16 **2. Sufficiency of Settlement Amount Considering Defendant’s Maximum**
17 **Theoretical Exposure**

18 PAGA provides for a maximum recovery of \$100 per initial violation and \$200 for all
19 subsequent violations. (Labor Code § 2699(f)(2).)

20 Based on Plaintiff’s review of all time and pay records for twenty-three (23) Employees
21 employed by Defendant from March 14, 2022 to May 19, 2024, Plaintiff determined that the most
22 viable alleged violation of PAGA was Defendant’s alleged failure to provide second meal breaks for
23 shifts over 10 hours. (Petronelli Decl. ¶ 24.) If the Court imposed a separate PAGA penalty for each
24 day on which an Aggrieved Employee did not receive a second meal period during a shift in excess
25 of 10 hours, Defendant’s maximum theoretical exposure was **\$549,200.00** assuming a separate
26 PAGA penalty for each day on which a violation occurred. (Petronelli Decl. ¶ 25.) However,
27 considering that the penalty under Labor Code § 226.7 for failure to provide a second meal period is
28 limited to one (1) hour of pay (which in this case would have been approximately \$18.00 on average),

1 it is unlikely that the Court would impose a maximum PAGA penalty of \$200 per missed break since
2 such a penalty would be more than 10 times that amount of the penalty under Labor Code § 226.7.
3 (Petronelli Decl. ¶ 26.)

4 Instead, it seemed more likely that the Court would impose a singular PAGA penalty for each
5 pay period during which Defendant failed to provide second meal breaks for shifts over 10 hours
6 since this penalty would closely mirror the penalties available in a private action under Labor Code
7 § 226.7. (Petronelli Decl. ¶ 27.) Using this calculation, Defendant's maximum theoretical exposure
8 was limited to **\$188,800.00**. (*Id.*)

9 However, Defendant could have contended that this penalty was still excessive since many
10 Aggrieved Employees signed arguably valid meal period waivers which would reduce available
11 PAGA penalties by nearly twenty (20%) percent to **\$154,600.00**, which the Court still has authority
12 to reduce. Defendant could have claimed that an argument for reduced penalties was particularly
13 compelling in light of the fact that after the filing of this lawsuit (1) the number of shifts over 10
14 hours was reduced, (2) meal period waivers were obtained, and (3) meal period premiums were paid
15 when owed. (Petronelli Decl. ¶ 28.)

16 **3. Trial Courts Have Discretion to Significantly Reduce PAGA Penalties**

17 PAGA penalties are discretionary in nature and, even if Plaintiff was successful at trial, the
18 Court has discretion to significantly decrease the amount of damages awarded in this PAGA action.
19 (See, e.g., *Fleming v. Covidien, Inc.*, No. ED CV10-01487, 2011 U.S. Dist. LEXIS 154590, at *8–9
20 (C.D. Cal. Aug. 12, 2011) (slashing PAGA penalties for wage statement violations by over 500%,
21 from \$2.8 million to \$500,000).) In fact, PAGA itself expressly grants discretion to trial courts in
22 awarding PAGA penalties:
23

24 In any action by an aggrieved employee seeking recovery of a civil penalty
25 available under subdivision (a) or (f), a court may award a lesser amount than the
26 maximum civil penalty amount specified by this part if, based on the facts and
27 circumstances of the particular case, to do otherwise would result in an award that
28 is unjust, arbitrary and oppressive, or confiscatory.

1 (Labor Code 2699(e)(2).)

2 In following with this authority, California Courts of Appeal have upheld Superior Court
3 decisions heavily-discounting PAGA awards – in some cases limited PAGA penalties to only \$5 per
4 pay period. (*Carrington v. Starbucks* (2018) 30 Cal. App. 5th 504.)

5 Plaintiff in *Carrington* had requested more than \$70 million in damages and were successful
6 in proving their PAGA claim during a bench trial. However, the trial Judge held that the Defendant
7 had attempted to comply with the law and reduced the total award after trial to \$150,000 out of the
8 \$70 million requested by Plaintiff's counsel. In affirming the trial court's ruling, the appellate court
9 confirmed that it was within the Court's discretion to significantly reduce PAGA penalties even with
10 a finding that violation of the Labor Code occurred. (*Carrington*, 30 Cal. App. 5th 504, 529.)

11 **4. Risks Associated with the Merits**

12 As in all litigation, there are risks that a party will not prevail on the merits. In this case,
13 Plaintiff contended that, at times, lawful second meal periods were not provided for shifts longer
14 than 10 hours. However, Defendant could have argued that Plaintiff and Aggrieved Employees were
15 able to take second meal periods and simply chose not to do so, and did voluntarily waived second
16 meal periods during shifts in which they were provided a first meal period and obtained written
17 waivers documenting the same. (Petronelli Decl. ¶ 28.) If Defendant's contentions are proven true
18 and prevail at trial, the likely outcome of this claim would be an extremely limited recovery for
19 Plaintiff and Aggrieved Employees on this claim and the derivative Labor Code § 226 PAGA claim.
20

21 **5. Risk, expense, complexity and likely duration of any litigation**

22 Given the risks outlined above, the issues in this case were complex and the risk for Plaintiff
23 and the Aggrieved employees associated with this litigation was high.

24 A trial would require the retention of expensive expert witnesses, the accrual of extensive
25 litigation costs, and the parties would have had to spend a substantial amount of time. Finally, given
26 the complexity and nature of PAGA issues and recent changes to the PAGA statute, it is likely that
27 any outcome at trial would result in a lengthy and costly appeal. An appeal would result in further
28 delay for the aggrieved employees who have already waited years for resolution in this matter.

1 In short—and given the substantial risks in continued litigation, including the uncertainty of
2 success—the Settlement represents a reasonable compromise of Plaintiff’s claims and ensures that
3 LWDA and aggrieved employees will receive a fair and adequate recovery.

4 **6. Request for Attorneys’ Fees.**

5 Under the Settlement Agreement, PAGA Counsel also requests, without opposition from
6 Defendant, an award of Attorneys’ Fees and Costs consisting of: (1) no more than Forty Thousand
7 Dollars (\$40,000) in Attorneys’ Fees and (2) Two Thousand Five Hundred Dollars (\$2,500.00) for
8 reimbursement of PAGA Counsel’s costs. This request is fair, reasonable, and adequate to
9 compensate PAGA Counsel for the substantial work they have put into this case and, moreover, the
10 risk they assumed by taking it in the first place. (Petronelli Decl. ¶ 29.) The attorneys’ fees award
11 is intended to reimburse PAGA Counsel for all uncompensated work that they have already done
12 and for all the work they will continue to do to finalize this settlement. To date, PAGA Counsel has
13 already incurred attorney fees in excess of the Attorneys’ Fees requested, in the amount of
14 \$52,265.00 based on PAGA Counsel’s current hourly rate. (Petronelli Decl. ¶¶ 30-31.)

15
16 PAGA Counsel took this case on a contingent-fee basis against a business represented by a
17 reputable defense firm. Contingency cases require careful attention to the economics involved
18 because one bad case could destroy years of work. This case claimed a significant portion of PAGA
19 Counsel’s time and attention throughout its pendency, time that could not be spent on other cases.
20 The requested fee is reasonable for the services provided to the Aggrieved Employees and for the
21 benefits they are to receive.

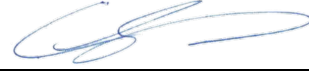
22 **IV. CONCLUSION**

23 As detailed above, the Parties have negotiated a PAGA penalties Settlement that is fair,
24 reasonable, and adequate—and meets approval under California law. Accordingly, the Parties
25 respectfully request that this Court grant approval of the Settlement Agreement.
26
27
28

1 Dated: April 1, 2025

PETRONELLI LAW GROUP, PC

2
3 By:



4 CHRISTIAN J. PETRONELLI, ESQ.
5 MITCHEL D. VANDERPOOL, ESQ.

6 *Attorneys for Plaintiff*
7 ANDREA CAMPOS
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

Los Angeles Superior Court Case No.: 23STCV11801

I, Jennifer M. Reyes, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 5826 E. Naples Plaza, Long Beach, CA 90803.

On April 1, 2025, I served the within document(s):

**PLAINTIFF'S AMENDED MOTION FOR APPROVAL OF PRIVATE
ATTORNEY GENERAL ACT SETTLEMENT**

☒ **E-MAIL:** By transmitting the document(s) listed above, electronically, via the e-mail addresses set forth below.

Cari A. Cohorn, Esq.
Workplace Legal, A Professional Law Corporation
 870 Market Street, Suite 1152
 San Francisco, CA 94102
 Telephone: (415) 851-8900
 Email: ccohorn@workplacelegalpc.com

Attorneys for Defendant

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 1, 2025, at Long Beach, California.


Jennifer M. Reyes
Paralegal
PETRONELLI LAW GROUP, PC