

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE Civil Complex Center 751 W. Santa Ana Blvd Santa Ana, CA 92701	
SHORT TITLE: Deatherage vs. Stifel, Nicolaus & Company, Incorporated	
CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE	CASE NUMBER: 30-2023-01344151-CU-OE-CXC

I certify that I am not a party to this cause. I certify that that the following document(s), Minute Order dated 08/13/26, was transmitted electronically by an Orange County Superior Court email server on August 19, 2026, at 4:14:53 PM PDT. The business mailing address is Orange County Superior Court, 700 Civic Center Dr. W, Santa Ana, California 92701. Pursuant to Code of Civil Procedure section 1013b, I electronically served the document(s) on the persons identified at the email addresses listed below:

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CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER**

MINUTE ORDER

DATE: 08/13/2026 TIME: 02:00:00 PM DEPT: CX105

JUDICIAL OFFICER PRESIDING: Melissa R. McCormick

CLERK: V. Harting

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: R. Fragola

CASE NO: **30-2023-01344151-CU-OE-CXC** CASE INIT.DATE: 08/17/2023

CASE TITLE: **Deatherage vs. Stifel, Nicolaus & Company, Incorporated**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 74891854

EVENT TYPE: Motion - Other

MOVING PARTY: Sarah Deatherage

CAUSAL DOCUMENT/DATE FILED: Motion - Other for approval of paga settlement, 07/02/2026

APPEARANCES

No appearance by all parties.

Plaintiff's Motion for Approval of PAGA Settlement

Tentative Ruling posted on the Internet.

The Court confirms the tentative ruling, a copy of which is attached hereto and incorporated herein by reference.

Deatherage v. Stifel, Nicolaus & Company, Incorporated
Case No. 30-2023-01344151-CU-OE-CXC

Plaintiff's Motion for Approval of PAGA Settlement

“Because an aggrieved employee's action under the Labor Code Private Attorneys General Act of 2004 functions as a substitute for an action brought by the government itself, a judgment in that action binds all those, including nonparty aggrieved employees, who would be bound by a judgment in an action brought by the government.” *Arias v. Superior Court* (2009) 46 Cal.4th 969, 986. PAGA settlements are subject to trial court review “to determine whether [they are] fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws.” *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77.

The court has reviewed and considered the papers filed in support of plaintiff's motion for approval of a \$300,000 PAGA settlement. The court has the following questions and comments:

1. Plaintiff filed an overlong brief without obtaining leave of court. Plaintiff should not do so again. Failure to comply with applicable court rules may result in sanctions and/or an order striking the overlong brief.
2. Were the motion papers served on all parties and the LWDA? Attorney Whitehead states in his declaration that “[t]he LWDA has been provided with notice of this motion and the Settlement,” but the court's file does not contain any documents showing that the LWDA or defendant were provided notice of the motion. Whitehead Decl. (ROA 142) ¶ 20. Plaintiff must file with the court a proof of service identifying the specific documents served on all parties and the LWDA, when plaintiff served the documents, and how service was effected.

As to the settlement:

3. Is the estimated average individual PAGA payment \$67.72 (Brief (ROA 138) at 10:7; Bylsma Decl. (ROA 144) ¶ 57), \$79.50 (Whitehead Decl. (ROA 142) ¶ 23), or some other amount? In addition, the parties should provide the estimated high and low individual PAGA payments.
4. Plaintiff should provide her anticipated individual PAGA payment. In addition, plaintiff seeks \$22,000 from the gross settlement amount (\$17,000 for an “Individual Settlement” and \$5,000 for a “PAGA Representative Service Award”). Settlement Agreement ¶ 3.2.2.1. Absent unique circumstances, the court is unlikely to approve a payment (other than her individual PAGA payment) to plaintiff from the gross settlement amount that exceeds \$2,500. Plaintiff should address in the supplemental filings whether any such unique circumstances exist here.

5. The PAGA Period in paragraph 1.21 needs a firm end date to enable the court to evaluate the fairness and reasonableness of the settlement.
6. The "Released Parties" provision in paragraph 1.29 of the settlement agreement is overbroad. It includes ambiguous, unidentified and/or unrelated third parties such as "sister companies," "affiliated companies," "insurers," "agents," "attorneys" and "partners."
7. The parties should provide a declaration demonstrating the propriety of the proposed cy pres recipient (Settlement Agreement ¶ 4.4.3) and explaining why a cy pres distribution is appropriate here, as opposed to, e.g., distributing any unclaimed funds to the State Controller's Office in the aggrieved employee's name. The parties and counsel must also submit declarations stating whether they have any interest in the proposed cy pres recipient, including in its governance.
8. If the parties intend any of the releases in paragraph 5 to apply to the Aggrieved Employees, the phrase "Aggrieved Employees" should be inserted in paragraph 5 after "Plaintiff" and before "will release claims."
9. The second sentence of paragraph 8 should be revised, including removing subsection (b), as the court will not approve a settlement that permits defendant to shorten the PAGA Period.
10. The parties (plaintiff and defendants) should advise, in declarations filed with the court, whether, after making reasonable inquiry, they are aware of any class, representative or other collective action in any court that asserts claims similar to those asserted in this action. If any such actions are known to exist, the declarations shall also state the name and case number of any such case and the procedural status of that case, and describe the impact of the settlement on that case.
11. Plaintiff's counsel seeks attorneys' fees totaling 35% of the gross settlement amount. Absent unique circumstances, the court is unlikely to approve an attorneys' fees award that exceeds 30% of the gross settlement amount. Plaintiff's counsel should address in the supplemental filings whether any such unique circumstances exist here.
12. Plaintiff's counsel from both firms must provide the position (e.g., partner, associate, etc.), years of practice, experience in PAGA actions, the hourly billing rate, and statement that the hourly rate is the reasonable and usual hourly rate charged by that attorney for similar services for each of the timekeepers listed on the timesheets. Plaintiff's counsel should also provide the total number of hours worked by each attorney on the case.

13. Plaintiff's counsel should state whether there is a fee-splitting agreement between Schneider Wallace Cottrell Kim LLP and W Employment Law, APC, or confirm none exists.
14. Plaintiff's counsel either seeks \$30,000 or \$34,865.85 in costs. See Brief (ROA 138) at 15:12-13 ("Here, PAGA Counsel together have incurred \$34,865.85, **more** than the \$30,000 requested") (bold and italics in original). Plaintiff's counsel should clarify in the supplemental filing the amount of costs sought. In addition, plaintiff's counsel (SWCK) must submit invoices substantiating the mediation charges (\$13,000 and \$10,500). Plaintiff's counsel (SWCK) should also explain why the arbitration fee (\$2,000) is properly reimbursed from the gross settlement amount. Copying and printing charges (SWCK) are not recoverable and should be removed. Plaintiff's counsel (W Employment Law, APC) should submit invoices substantiating the two \$2,974.43 charges on W Employment Law, APC's costs list. Plaintiff's counsel should provide evidence substantiating the charges for "Lexis-Nexis Document Retrieval."
15. The parties should provide the settlement administrator's qualifications and experience, including evidence that the settlement administrator has procedures in place to protect the security of class data, and sufficient insurance in the event of a data breach or mishandling of the settlement funds. The parties should also submit a copy of the settlement administrator's invoice. (The text of the Lawrence Declaration (ROA 140) appears to be the text of plaintiff's notice of motion.)

As to the notice:

16. The parties did not submit a notice letter to be sent to the aggrieved employees along with the settlement checks. The notice letter should (i) provide an explanation of PAGA; (ii) describe the factual allegations of the operative complaint; (iii) describe the scope of released claims; (iv) state the gross settlement amount, net settlement amount, and the portions allocated to the LWDA and the aggrieved employees; (v) explain how the individual payments will be calculated; (vi) describe the recipient's responsibility for any taxes payable on the amount received; and (vii) notify the aggrieved employees that they cannot opt out of the settlement and that, even if they do not cash their checks, they will be bound by the release.
17. The parties should state whether the notice letter should be provided in any language other than English. If so, a certified copy of the translated notice should be attached as an exhibit to the proposed order and judgment.

As to the proposed order and judgment (ROA 136):

18. The proposed order and judgment should be revised consistent with the above.

19. Counsel information should be removed from the caption page of the proposed order and judgment.
20. The proposed order and judgment should be styled as an “order and judgment.”
21. The settlement agreement and any amendments thereto should be attached as exhibits to the proposed order and judgment (along with the notice letter in all languages). Paragraph 1 of the proposed order and judgment should be revised accordingly.
22. The proposed order and judgment should identify the Aggrieved Employees and the PAGA period.
23. The proposed order and judgment should state the gross settlement amount.
24. The proposed order and judgment should state how notice of entry of the judgment will be given to the aggrieved employees.
25. The proposed order and judgment should state that the court orders the parties, their counsel and the settlement administrator to administer the settlement in accordance with the terms of the settlement agreement.
26. The proposed order and judgment should include a proposed date for the final accounting hearing. The final accounting hearing should occur after the deadline to cash checks has expired. The court holds final accounting hearings on Thursdays at 9:00 a.m. The proposed order and judgment shall state that counsel shall submit a final administrator’s report at least 9 court days before the hearing addressing the status of the settlement administration, including the actual amounts paid to the aggrieved employees and the other amounts distributed under the settlement, including any uncashed checks.

The hearing on plaintiff’s motion for approval of PAGA settlement is continued to December 10, 2026 at 2:00 p.m. in department CX105 to permit the parties to address and respond to the above issues. See *also* Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. If required, an amendment to the settlement agreement is directed, rather than “amended settlement agreement,” to streamline the court’s review. The parties shall also provide redline copies of the revised notice and proposed order.

Clerk to give notice to Plaintiff and Plaintiff is ordered to provide notice to all other parties, including to the LWDA, and to file a proof of service. Plaintiff must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service.