

PLAINTIFF/PETITIONER: David Delgado, et al.
 DEFENDANT/RESPONDENT: Elite Rooter, Inc., et al.

CASE NUMBER:
 23STCV25139

**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)*:
 See attached POS.

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)*:
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4. The envelope was addressed and mailed as follows:

a. Name of person served:

Street address:

City:

State and zip code:

c. Name of person served:

Street address:

City:

State and zip code:

b. Name of person served:

Street address:

City:

State and zip code:

d. Name of person served:

Street address:

City:

State and zip code:

☐ Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

5. Number of pages attached:

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

Date:

 (TYPE OR PRINT NAME OF DECLARANT)

_____
 (SIGNATURE OF DECLARANT)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 61

23STCV25139

DAVID DELGADO vs ELITE ROOTER, INC., et al.

April 21, 2026

9:00 AM

Judge: Honorable Richard S. Kemalyan

Judicial Assistant: Ricky Wang

Courtroom Assistant: Diana De Leon

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Peter James Carlson by Lawrence D. Marks, Anthony Babakhanian, and Edward Choi via LACC

For Defendant(s): Charlie P. Hamamjian via LACC

Other Appearance Notes: Hill Edwards via LACC, Jeremy Lawrence Amade via LACC

NATURE OF PROCEEDINGS: Hearing on Motion - Other ENFORCE SETTLEMENT PURSUANT TO CCP SECTION 664.6 AND TO APPROVE THE PARTIES' SETTLEMENT AGREEMENT PURSUANT TO THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004; Order to Show Cause Re: Defendant's Failure to Appear on 2/13/26 and Failure to Explain Resolution Status with Sanctions of \$250; Status Conference Re: Settlement

The matter is called for hearing.

The tentative ruling is posted on the Court's website for all parties/counsel to review.

Parties submit on the tentative.

The tentative ruling is adopted as the final order of the court.

Analysis:

I. MOTION TO APPROVE SETTLEMENT

Under PAGA, “[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court.” (Lab. Code, § 2699, subd. (1)(2).)

“[A] trial court should evaluate a PAGA settlement to determine whether it is 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.)

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Federal courts have compared and contrasted PAGA settlements to class action settlements:

In the class action context, where PAGA claims often also appear, a district court must independently determine that a proposed settlement agreement is “fundamentally fair, adequate and reasonable” before granting approval. [Citations.] However, as the parties rightly point out and as noted above, this is not a class action lawsuit, and PAGA claims are intended to serve a decidedly different purpose—namely to protect the public rather than for the benefit of private parties. [Citation.] In one recent district court case, the LWDA provided some guidance regarding court approval of PAGA settlements. [Citations.] In that case, where both class action and PAGA claims were covered by a proposed settlement, the LWDA stressed that “when a PAGA claim is settled, the relief provided for under the PAGA be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public and, in the context of a class action, the court evaluate whether the settlement meets the standards of being “fundamentally fair, reasonable, and adequate” with reference to the public policies underlying the PAGA.”

(*Salazar, supra*, 2017 WL 1135801 at pp. 3–4.) A number of these factors, “including the strength of the plaintiff’s case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount,” have been recognized as useful in the analysis of PAGA settlements. (*Moniz, supra*, 72 Cal.App.5th at p. 77.)

Plaintiffs David Delgado, Bret Constant, and Luis Romero (“Plaintiffs”) seek approval of a PAGA settlement entered with Defendant s Elite Rooter, Inc., Elite Rooter Orange, Inc., Elite Rooter SDN, Inc., Elite Rooter Peninsula, Inc., Elite Rooter Phoenix, Inc., Elite Rooter San Jose, Inc., Elite Rooter SFV, Inc., Elite Rooter South Bay, Inc., and Elite Rooter Fresno, Inc. (“Defendants”).

The terms of the settlement are as follows. Defendants are to pay a gross settlement amount of \$200,000.00. (Supp. Choi Decl. Exh. A § 1.13.) From this amount, Plaintiffs’ counsel shall take \$66,666.66 (one third of the gross) in attorney fees, plus costs not to exceed \$25,000.00 (*Id.* at § 3.2.1), although Plaintiffs represent that only \$15,782.82 have actually been incurred. (Choi Decl. ¶ 13.) \$15,000.00 from the gross shall go to give each named plaintiff a \$5,000.00 service award. (Supp. Choi Decl. Exh. A, § 3.2.2.) \$3,200 shall go to settlement administration. (*Id.* at § 3.2.3.)

This leaves a net settlement amount of about \$99,350.52, of which shall be distributed 75% to

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Deputy Sheriff: None

the Labor Workforce Development Agency (\$74,512.81) and the remainder (\$24,837.71) to aggrieved employees. It is estimated that there are 250 aggrieved employees, who worked 7,000 pay periods, who shall receive payments on a pro rata basis based on the number of pay periods worked by the employee. (Supp. Choi Decl. Exh. A, § 4.1.)

Plaintiffs estimate Defendants' total potential PAGA exposure to be \$700,000, assessing a \$100 penalty for each of the 7,000 pay periods at issue, and based on the proposition that the court would not stack multiple penalties for multiple violations in the same pay period. (*See Salazar v. PODS Enterprises, LLC* (C.D. Cal., May 8, 2019, No. EDCV19260MWFKKX) 2019 WL 2023726, at *6.)

The calculation of attorney fees from a percentage of a common fund created by a settlement agreement is a permissible mode of fee calculation. (*See Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 503.) The one-third apportionment of fees is reasonable, and the attorneys present declarations attesting to their qualifications. Settlement in this matter followed a contested arbitration motion, formal and informal discovery, and mediation. (Choi Decl. ¶ 13.)

The settlement comports with the purposes of PAGA and is fair and reasonable. Plaintiffs make a persuasive showing for the amount and allocation of the settlement award, and present evidence showing the reasonableness of the attorney fee request.

The motion is therefore GRANTED.

Plaintiffs David Delgado, Bret Constant, and Luis Romero's Motion to Approve PAGA Settlement is GRANTED.

Plaintiffs to provide notice.

Dated: April 21, 2026

Hon. Richard S. Kemalyan
Judge of the Superior Court

The Motion re: ENFORCE SETTLEMENT PURSUANT TO CCP SECTION 664.6 AND TO APPROVE THE PARTIES SETTLEMENT AGREEMENT PURSUANT TO THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 filed by Brett Constant, Luis

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Courtroom Assistant: Diana De Leon

CSR: None

ERM: None

Deputy Sheriff: None

Romero, David Delgado on 03/20/2026 is Granted.

The Order to Show Cause is discharged.

Status Conference is held.

The Court sets a hearing date for distribution of funds.

Status Conference Re: Distribution of Funds (PAGA Settlement) is scheduled for 04/21/2027 at 09:00 AM in Department 61 at Stanley Mosk Courthouse.

Parties to file a joint report 5 court days before the next hearing date.

Notice is waived.

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 22, 2026, I served the foregoing document(s) described as: **NOTICE OF ENTRY OF 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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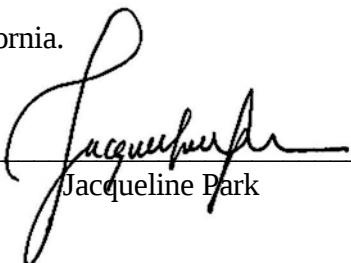
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 X **BY ELECTRONIC SERVICE**

I caused such document to be served on the offices of the addressees via electronic mail.

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

Executed on April 22, 2026, at Los Angeles, California.



Jacqueline Park