

NOTE: This cover sheet is to be used to electronically file and submit to the court a proposed order. The proposed order sent electronically to the court must be in PDF format and must be attached to this cover sheet. In addition, a version of the proposed order in an editable word-processing format must be sent to the court at the same time as this cover sheet and the attached proposed order in PDF format are filed.

- 
(SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME:
BARRANTES v. BEVERAGES & MORE, INC.

CASE NUMBER:
C24-00320

**PROOF OF ELECTRONIC SERVICE
PROPOSED ORDER**

1. I am at least 18 years old and **not a party to this action**.

a. My residence or business address is (*specify*):
515 S. Figueroa Street Suite 1250, Los Angeles, CA 90071

b. My electronic service address is (*specify*): jackie@choiandassociates.com

2. I electronically served the *Proposed Order (Cover Sheet)* with a proposed order in PDF format attached, and a proposed order in an editable word-processing format as follows:

a. On (*name of person served*) (*If the person served is an attorney, the party or parties represented should also be stated.*):
Lonnie D. Giamela - lgiamela@fisherphillips.com
Jacob P. Waschak - jwaschak@fisherphillips.com
Attorneys for Defendant BEVERAGES & MORE, INC.

b. To (*electronic service address of person served*): lgiamela@fisherphillips.com; jwaschak@fisherphillips.com

c. On (*date*): 4/23/2025

☐ Electronic service of the *Proposed Order (Cover Sheet)* with the attached proposed order in PDF format and service of the proposed order in an editable word-processing format on additional persons are described in an attachment.

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

Date: 4/23/2025

Jacqueline Park

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com

DIVERSITY LAW GROUP, P.C.

515 S. Figueroa St., Suite 1250

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Attorneys for Plaintiff and Aggrieved Employees

*** ADDITIONAL COUNSEL ON NEXT PAGE

Electronically Filed by
Superior Court of California
County of Contra Costa
5/7/2025 2:00 PM
By: S. Gonzalez, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA**

CHARLES BARRANTES, as a proxy for
the State of California,

Plaintiff,

v.

BEVERAGES & MORE, INC., a
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: C24-00320

*Assigned for All Purposes to Hon. Edward G.
Weil in Dept. 39*

**~~[PROPOSED]~~ ORDER GRANTING
PLAINTIFF'S MOTION TO APPROVE THE
PARTIES' SETTLEMENT AGREEMENT
PURSUANT TO THE LABOR CODE
PRIVATE ATTORNEYS GENERAL ACT
OF 2004 AND ENTERING JUDGMENT
THERON**

Date: April 3, 2025

Time: 9:00 a.m.

Dept.: 39

ADDITIONAL COUNSEL FOR PLAINTIFF

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LAW OFFICES OF CHOI & ASSOCIATES

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David Lee, Esq., SBN 296294

DAVID LEE LAW, APC

777 S. Alameda St., 2nd Fl.

Los Angeles, CA 90021

Telephone: (213) 236-3536

Facsimile: (866) 658-4722

Attorneys for Plaintiff

1 **~~[PROPOSED]~~ ORDER AND JUDGMENT**

2 Charles Barrantes moves for approval of the settlement of his PAGA suit against
3 defendant Beverages & More, Inc.

4 **A. Background of the Case and Terms of Settlement**

5 This a PAGA case, alleging a variety of violations of the Labor Code concerning failure
6 to provide rest and meal breaks, failure to pay minimum wages and overtime, and cascading
7 derivative violations. The complaint was filed February 6, 2024. Required notice to the LWDA
8 was provided December 4, 2023, October 15, 2024, and October 28, 2024.

9 The total settlement payment is \$700,000. This is composed of attorney's fees of
10 \$233,333.33, litigation costs of up to \$20,000 (but only \$9,699 are actually requested), and up to
11 \$21,000 in costs to the settlement administrator (Phoenix Class Action Administration
12 Solutions). A general release fee of \$10,000 would be paid to the plaintiff. The remaining
13 amount would be a PAGA penalty of \$415,666.67 97, which would be apportioned 75% to the
14 LWDA and 25% to the aggrieved employees.

15 The settlement indicates that there are an estimated 6,384 covered employees. The
16 payments from the employee share of the penalty will be distributed among the employees based
17 on the number of pay periods each individual worked during the PAGA period. The average
18 employee share will be about \$16.

19 The agreement contains an escalator clause under which, if the final calculation of
20 workweeks exceeds the current estimate by more than 5%, defendant may either increase its
21 payment or shorten the PAGA period until the number of workweeks is below the threshold.
22 Such provisions often occur in a class action context, where the Court has concerns that
23 shortening the claims period could deprive some class members of their wage awards. In the
24 context of a PAGA action, however, in which the claims are representative of the state only,
25 however, the provision does not pose the same concern.

26 Plaintiff's counsel attests that informal discovery was undertaken, and the settlement was
27 reached after meeting with an experienced mediator.

28 Plaintiff provided required notices to the LWDA of the initial claims and of the proposed

1 settlement.

2 The settlement provides a process for mailing the notices to the aggrieved employees,
3 who will not have to submit a claim, along with a process for following up on returned mail.
4 Because this is a PAGA settlement, not a class action, there is no opportunity to object or opt
5 out.

6 The settlement provides that the value of checks uncashed after 180 days will be turned
7 over to the State Controller's Office Unclaimed Property Division in the names of the aggrieved
8 employees.

9 The settlement releases any claims under PAGA that were "based on the factual
10 allegations in the Operative Complaint[.]" and the LWDA notice during the PAGA period.
11 (Settlement, Par. 5.2.) (The PAGA period is February 6, 2023 through October 15, 2024. Under
12 recent appellate authority, limitation to those claims with the "same factual predicate" as those
13 alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th
14 521, 537 ["A court cannot release claims that are outside the scope of the allegations of the
15 complaint." "Put another way, a release of claims that goes beyond the scope of the allegations in
16 the operative complaint' is impermissible." (*Id.*, quoting *Marshall v. Northrop Grumman Corp.*
17 (C.D. Cal.2020) 469 F.Supp.3d 942, 949.)

18 **B. Standards for Review of a PAGA Settlement**

19 Settlements in PAGA cases must be approved by the court. (Labor Code § 2699(s)(2).)
20 Recently, the Court of Appeal's decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th
21 56, provided guidance on this issue. In *Moniz*, the court found that the "fair, reasonable, and
22 adequate" standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The
23 Court also held that the trial court must assess "the fairness of the settlement's allocation of civil
24 penalties between the affected aggrieved employees[.]" (*Id.*, at 64-65.)

25 California law provides some general guidance concerning judicial approval of any
26 settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of*
27 *California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement
28 contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405,

1 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, “[t]he court cannot surrender
2 its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere
3 puppet in the matter.” (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990)
4 50 Cal.3d 658, 664.) As a result, courts have specifically noted that Neary does not always apply,
5 because “[w]here the rights of the public are implicated, the additional safeguard of judicial
6 review, though more cumbersome to the settlement process, serves a salutatory purpose.”
7 (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 46,
8 63.)

9 **C. Application to this settlement**

10 Plaintiff indicates that the settlement is fair and was evaluated by counsel based on
11 adequate information and arms-length negotiation, which included the assistance of an experienced
12 mediator. Even assuming success on the merits of each claim, PAGA gives the court discretion to
13 reduce penalties for a variety of reasons, including where “based on the facts and circumstances of
14 the particular case, to do otherwise would result in an award that is unjust arbitrary and oppressive,
15 or confiscatory.” (Labor Code, § 2699(e)(2).) These factors make the result hard to predict. In their
16 brief and declarations, counsel provide a general description of the risk and uncertainty of PAGA
17 litigation generally, as well as an analysis of the claims in this case and their value, broken out by
18 each claimed type of violation.

19 Labor Code section 2699(k)(1) provides that a prevailing employee in a PAGA action
20 may recover attorney’s fees. Plaintiff seeks 33.33% of the total settlement amount as fees,
21 relying on the “common fund” theory. Even a proper common fund-based fee award, however,
22 should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016)
23 1 Cal.5th 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to
24 determine whether the percentage allocated is reasonable. It stated: “If the multiplier calculated
25 by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider
26 whether the percentage used should be adjusted so as to bring the imputed multiplier within a
27 justifiable range, but the court is not necessarily required to make such an adjustment.” (*Id.*, at
28 505.) Although *Lafitte* concerns a class action, not a PAGA-only case, this Court views the use

1 of a lodestar cross-check as appropriate here.

2 Plaintiff has conducted a lodestar cross-check. Counsel calculate 247.90 hours, at hourly
3 rates ranging from \$400 to \$900. This results in a lodestar of approximately \$185,000, with an
4 implied multiplier of 1.26. Without necessarily endorsing every individual component of the
5 lodestar, it is clear in this case that no adjustment is required.

6 The statute does not expressly address how the 25% plaintiff's share of the penalties is to
7 be allocated among all of the aggrieved employees. (*Iskanian v. CLS Transp. Los Angeles, LLC*
8 (2014) 59 Cal.4th 348, 382.) One court has held, however, that the entire 25% share of penalties
9 could not be awarded to the plaintiff. (*Moorer v. Noble L.A. Events, Inc.* (2019) 32 Cal.App.5th
10 736, 742-743.) In *Moorer*, the plaintiff had a claim worth about \$9,500, yet was collecting
11 penalties of \$148,000, and keeping the entire employee share, causing the court to be concerned
12 that the plaintiff had lost sight of the fact that the purpose of the action is to benefit the public,
13 not private parties. Allocation based on pay periods is reasonable here.

14 Costs of \$9,699 are sought. They are reasonable and are approved.

15 The administrator's costs of \$6,000 are reasonable and are approved.

16 The plaintiff's release fee of \$10,000 is justified on the basis of the broader release given
17 by plaintiff than solely the PAGA claims. There is no evidence presented, however, that he has
18 any other claims of value. He simply signed a general waiver. Plaintiff attests that he worked
19 approximately 40 hours on the case. While it is a close case, the \$10,000 award is approved.

20 **D. Conclusion**

21 The Court finds that the settlement is fair, reasonable, and adequate, and grants the
22 motion to approve.

23 A non-appearing compliance hearing is set for January 15, 2026 at 9:00 a.m. in
24 Department 39 of the above-refenced Court. One week before the compliance hearing, counsel
25 shall file a compliance statement. 5% of the attorney's fees shall be withheld by the
26 Administrator pending the compliance hearing.

27 ///

NOW THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. Pursuant to Labor Code § 2699(l)(2), the Court approves the Settlement Agreement executed by Plaintiff and Defendant and filed with this Court, which is incorporated herein by this reference as though set forth in full, including the settlement administration and release of claims. All defined terms contained herein shall have the same meanings as set forth in the Settlement Agreement.

2. The Court finds that the Labor & Workforce Development Agency (“LWDA”) has been given timely and proper notice of the Settlement Agreement pursuant to the Labor Code Private Attorney General Act (“PAGA”).

3. The Parties are hereby ordered to carry out the terms of the Settlement Agreement. Defendant is hereby ordered to fund the Gross Settlement Amount of \$700,000.00 14 days after the Court enters this Order.

4. Pursuant to the terms of the Settlement Agreement and Labor Code § 2699(i), the Gross Settlement Amount of \$700,000.00 shall be distributed as follows:

- \$10,000.00 to Plaintiff for acting as a named plaintiff;
- \$233,333.33 to Plaintiff’s Counsel as attorneys’ fees as follows: Diversity Law Group, P.C. in the amount of \$93,333.33; Law Offices of Choi & Associates, P.C. in the amount of \$93,333.33; and David Lee Law, P.C. in the amount of \$46,666.67. 5% of the attorney’s fees shall be withheld by the Administrator pending the compliance hearing.
- \$9,666.66 to Plaintiff’s Counsel as costs;
- \$21,000.00 to Phoenix Settlement Administrators as the Settlement Administrator, who is hereby ordered to administer the Settlement;
- The remainder, or the Net PAGA Settlement Amount, after the above deductions shall be distributed 75% (\$319,500.01) to the Labor & Workforce Development Agency and 25% (\$106,500.00) to the Aggrieved Employees based on the formula set forth in the Settlement Agreement.

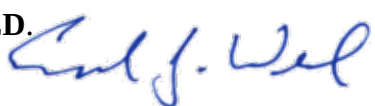
1 5. JUDGMENT IS ENTERED thereon pursuant to the terms of the Settlement
2 Agreement. Other than as expressly provided in the Settlement Agreement, both Parties shall
3 bear their own costs and fees.

4 6. Pursuant to Code of Civil Procedure § 664.6, this Court shall have and retain
5 continuing jurisdiction over this action to enforce the terms of the Parties' Settlement
6 Agreement.

7 7. Pursuant to Labor Code § 2699(1)(3), Plaintiff shall submit a copy of this Order
8 and Judgment to the LWDA within 10 days of entry of this Order and Judgment.

9
10 **IT IS SO ORDERED AND ADJUDGED.**

11
12 DATED: 5/6/2025



Hon. Edward Weil
Honorable Edward G. Weil
Judge of the Superior Court

13. 9:00 AM CASE NUMBER: C24-00320
CASE NAME: CHARLES BARRANTES VS. BEVERAGES & MORE, INC.
***HEARING ON MOTION IN RE: APPROVE SETTLEMENT AGREEMENT**
FILED BY: BARRANTES, CHARLES
TENTATIVE RULING:

Charles Barrantes moves for approval of the settlement of his PAGA suit against defendant Beverages & More, Inc.

A. Background of the Case and Terms of Settlement

This a PAGA case, alleging a variety of violations of the Labor Code concerning failure to provide rest and meal breaks, failure to pay minimum wages and overtime, and cascading derivative violations. The complaint was filed February 6, 2024. Required notice to the LWDA was provided December 4, 2023, October 15, 2024, and October 28, 2024.

The total settlement payment is \$700,000. This is composed of attorney's fees of \$233,333.33, litigation costs of up to \$20,000 (but only \$9,699 are actually requested), and up to \$21,000 in costs to the settlement administrator (Phoenix Class Action Administration Solutions). A general release fee of \$10,000 would be paid to the plaintiff. The remaining amount would be a PAGA penalty of \$415,666.67 97, which would be apportioned 75% to the LWDA and 25% to the aggrieved employees.

The settlement indicates that there are an estimated 6,384 covered employees. The payments from the employee share of the penalty will be distributed among the employees based on the number of pay periods each individual worked during the PAGA period. The average employee share will be about \$16.

The agreement contains an escalator clause under which, if the final calculation of workweeks exceeds the current estimate by more than 5%, defendant may either increase its payment or shorten the PAGA period until the number of workweeks is below the threshold. Such provisions often occur in a class action context, where the Court has concerns that shortening the claims period could deprive some class members of their wage awards. In the context of a PAGA action, however, in which the claims are representative of the state only, however, the provision does not pose the same concern.

Plaintiff's counsel attests that informal discovery was undertaken, and the settlement was reached after meeting with an experienced mediator.

Plaintiff provided required notices to the LWDA of the initial claims and of the proposed settlement.

The settlement provides a process for mailing the notices to the aggrieved employees, who will not have to submit a claim, along with a process for following up on returned mail. Because this is

a PAGA settlement, not a class action, there is no opportunity to object or opt out.

The settlement provides that the value of checks uncashed after 180 days will be turned over to the State Controller's Office Unclaimed Property Division in the names of the aggrieved employees.

The settlement releases any claims under PAGA that were "based on the factual allegations in the Operative Complaint[.]" and the LWDA notice during the PAGA period. (Settlement, Par. 5.2.) (The PAGA period is February 6, 2023 through October 15, 2024. Under recent appellate authority, limitation to those claims with the "same factual predicate" as those alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 537 ["A court cannot release claims that are outside the scope of the allegations of the complaint." "Put another way, a release of claims that goes beyond the scope of the allegations in the operative complaint' is impermissible." (*Id.*, quoting *Marshall v. Northrop Grumman Corp.* (C.D. Cal.2020) 469 F.Supp.3d 942, 949.)

B. Standards for Review of a PAGA Settlement

Settlements in PAGA cases must be approved by the court. (Labor Code § 2699(s)(2).) Recently, the Court of Appeal's decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found that the "fair, reasonable, and adequate" standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The Court also held that the trial court must assess "the fairness of the settlement's allocation of civil penalties between the affected aggrieved employees[.]" (*Id.*, at 64-65.)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, "[t]he court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter." (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that *Neary* does not always apply, because "[w]here the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutary purpose." (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 46, 63.)

C. Application to this settlement

Plaintiff indicates that the settlement is fair and was evaluated by counsel based on adequate information and arms-length negotiation, which included the assistance of an experienced mediator. Even assuming success on the merits of each claim, PAGA gives the court discretion to reduce penalties for a variety of reasons, including where "based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust arbitrary and oppressive, or confiscatory." (Labor Code, § 2699(e)(2).) These factors make the result hard to predict. In their brief and declarations, counsel provide a general description of the risk and uncertainty of PAGA litigation generally, as well as an analysis of the claims in this case and their value, broken out by each claimed type of violation.

Labor Code section 2699(k)(1) provides that a prevailing employee in a PAGA action may recover attorney's fees. Plaintiff seeks 33.33% of the total settlement amount as fees, relying on the

“common fund” theory. Even a proper common fund-based fee award, however, should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. It stated: “If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment.” (*Id.*, at 505.) Although *Lafitte* concerns a class action, not a PAGA-only case, this Court views the use of a lodestar cross-check as appropriate here.

Plaintiff has conducted a lodestar cross-check. Counsel calculate 247.90 hours, at hourly rates ranging from \$400 to \$900. This results in a lodestar of approximately \$185,000, with an implied multiplier of 1.26. Without necessarily endorsing every individual component of the lodestar, it is clear in this case that no adjustment is required.

The statute does not expressly address how the 25% plaintiff’s share of the penalties is to be allocated among all of the aggrieved employees. (*Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 382.) One court has held, however, that the entire 25% share of penalties could not be awarded to the plaintiff. (*Moorer v. Noble L.A. Events, Inc.* (2019) 32 Cal.App.5th 736, 742-743.) In *Moorer*, the plaintiff had a claim worth about \$9,500, yet was collecting penalties of \$148,000, and keeping the entire employee share, causing the court to be concerned that the plaintiff had lost sight of the fact that the purpose of the action is to benefit the public, not private parties. Allocation based on pay periods is reasonable here.

Costs of \$9,699 are sought. They are reasonable and are approved.

The administrator’s costs of \$6,000 are reasonable and are approved.

The plaintiff’s release fee of \$10,000 is justified on the basis of the broader release given by plaintiff than solely the PAGA claims. There is no evidence presented, however, that he has any other claims of value. He simply signed a general waiver. Plaintiff attests that he worked approximately 40 hours on the case. While it is a close case, the \$10,000 award is approved.

D. Conclusion

The Court finds that the settlement is fair, reasonable, and adequate, and grants the motion to approve.

Counsel are directed to prepare an order reflecting the provisions of the proposed order submitted to the court, and incorporating the provisions of this ruling.

In addition, the order should include a compliance hearing for a suitable date (after the settlement has been implemented), chosen in consultation with the Department’s clerk. One week before the compliance hearing, counsel shall file a compliance statement. 5% of the attorney’s fees shall be withheld by the Administrator pending the compliance hearing.

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 23, 2025, I served the foregoing document(s) described as: **PROPOSED ORDER (COVER SHEET); [PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION TO APPROVE THE PARTIES' SETTLEMENT AGREEMENT PURSUANT TO THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 AND ENTERING JUDGMENT THERON**, on the interested parties in this action by placing a true copy thereof, in a sealed envelope(s) addressed as follows:

Lonnie D. Giamela
E-Mail: lgiamela@fisherphillips.com
Jacob P. Waschak
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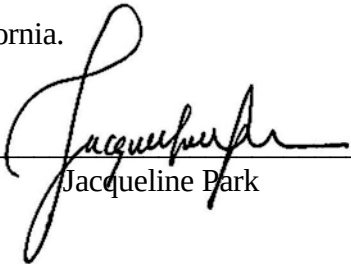
David Lee
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david@davidjleelaw.com
info@davidjleelaw.com

 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 23, 2025, at Los Angeles, California.



Jacqueline Park