

SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

JUSTIN BUI, as an individual and on behalf of)	Case No.: 24CV439149
all others similarly situated,	)
	)
Plaintiffs,	)
	)
v.	)
	)
	)
THE RANCH STEAKHOUSE AND	)
SALOON, INC., et al.,	)
	)
Defendants.	)

Dept. 7

This is a representative action under the Private Attorneys General Act ("PAGA"). Plaintiff Justin Bui ("Plaintiff") alleges Defendants The Ranch Steakhouse and Saloon, Inc. and RGB Systems, Inc. (together, "Defendants") violated Labor Code section 2698. Before the court is Plaintiff's motion for approval of the PAGA settlement.

I. BACKGROUND

According to the allegations of the complaint, Defendants employed Plaintiff as a senior maintenance technician from approximately June 29, 2023 until September 28, 2023. (Complaint, ¶ 7.) Plaintiff alleges Defendants failed to pay for all hours worked due to the unlawful rounding of employee time; failing to provide accurate, itemized wage statements; and failing to pay all wages to employees upon separation of employment.

ORDER GRANTING PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT

1 Based on these allegations, Plaintiff filed a complaint on May 17, 2024, alleging a single
2 cause of action for PAGA penalties. On February 7, 2025, Plaintiff filed a motion for approval
3 of the representative PAGA settlement.

4 **II. LEGAL STANDARDS FOR PAGA SETTLEMENT APPROVAL**

5 Labor Code section 2699, subdivision (s)(2) provides that “[t]he superior court shall
6 review and approve any settlement of any civil action filed pursuant to” PAGA. (Lab. Code, §
7 2699, subd. (s)(2).) The court’s review “ensur[es] that any negotiated resolution is fair to those
8 affected.” (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549, citing former Lab. Code, §
9 2699, subd. (l)(2)¹.) Seventy-five percent of any penalties recovered under PAGA go to the
10 Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-five percent
11 for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59
12 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v. Moriana* (2022)
13 596 U.S. 639.)

14 Similar to its review of class action settlements, the court must “determine independently
15 whether a PAGA settlement is fair and reasonable,” to protect “the interests of the public and the
16 LWDA in the enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72
17 Cal.App.5th 56, 76-77, disapproved of on another ground in *Turrieta v. Lyft, Inc.* (2024) 16
18 Cal.5th 664, 710.) It must make this assessment “in view of PAGA’s purposes to remediate
19 present labor law violations, deter future ones, and to maximize enforcement of state labor laws.”
20 (*Id.* at p. 77; see also *Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383 F. Supp. 3d
21 959, 971 [“when a PAGA claim is settled, the relief provided for under the PAGA [should] be
22 genuine and meaningful, consistent with the underlying purpose of the statute to benefit the
23
24

25 ¹ The court notes that the contents of Labor Code section 2699, subdivision (s)(2), used to
be located in Labor Code section 2699, subdivision (l)(2).

public . . .”], quoting LWDA guidance discussed in *O’Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O’Connor*).

The settlement must be reasonable in light of the potential verdict value. (See *O’Connor*, *supra*, 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential verdict].) But a permissible settlement may be substantially discounted, given that courts often exercise their discretion to award PAGA penalties below the statutory maximum even where a claim succeeds at trial. (See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 U.S. Dist. LEXIS 140759, at pp. 8-9.)

III. PLAINTIFF’S INVESTIGATION AND SETTLEMENT PROCESS

Prior to initiating the present lawsuit, counsel for Plaintiff investigated the factual and legal bases for the claims alleged by Plaintiff, including reviewing Plaintiff’s time and payroll records as provided by Defendants. (Declaration of Kristen M. Agnew (“Agnew Decl.” or “Agnew Declaration”), ¶¶ 3-5.) On March 13, 2024, Plaintiff submitted written notice under Labor Code section 2699.3 to the LWDA and Defendants alleging that Defendants violated Labor Code sections 201, 202, 203, 226(a), 510, 558, 1194, 1197, and 1197.1. (*Id.* at ¶ 6.)

Shortly after Plaintiff served the complaint on Defendants, the parties agreed to participate in private mediation with Michael Mandel (“Mandel”), an experienced wage and hour class action mediator. (Agnew Decl, ¶¶ 10-11.) The parties also agreed to the informal exchange of information leading up to the mediation. (*Id.* at ¶ 11.) Defendants provided data points regarding the number of non-exempt employees who worked for Defendants during the period of March 13, 2023 to October 29, 2023, the number of pay periods worked by employees during this period of time, and the number of non-exempt employees who separated employment. (*Ibid.*) Defendants also produced a sampling of time and payroll records for non-exempt employees. (*Ibid.*) The records confirmed that Defendants had ceased their rounding practices, as of October 29, 2023. (*Ibid.*)

1 On September 19, 2024, the parties engaged in mediation with Mandel. (Agnew Decl, ¶
2 12.) The parties reached a settlement agreement. (*Ibid.*)

3 **IV. SETTLEMENT PROVISIONS**

4 The gross settlement amount is \$330,2500. (Agnew Decl., Ex. 1 at p. 4:23-28.)
5 Attorney’s fees of up to \$110,083.33 (one-third of the gross settlement), litigation costs not to
6 exceed \$20,000, and administration costs not to exceed \$6,950, will be paid from the gross
7 settlement. (*Id.* at pp. 7:27-8:21.) \$196,662.51 will be allocated to PAGA penalties, 75% of
8 which (\$147,496.88) will be paid to the LWDA, with the remaining 25% (\$49,165.63)
9 distributed, on a pro rata basis according to their pay periods during the PAGA period, to
10 “PAGA Employees,” who are defined as “all current and former non-exempt employees of
11 Defendants in the state of California who worked at least one shift at any time from March 13,
12 2023 through October 30, 2023.” (*Id.* at pp. 5:8-10, 8:22-28.)

13 “Upon the Effective Date, each of the PAGA Employees, including Plaintiff, for
14 themselves and for their respective spouses, domestic partners, marital community, children,
15 estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors,
16 administrators, trustees, conservators, guardians, assigns, and representative (whether current or
17 former), fully release and forever discharge all of the Released Parties of an from all Released
18 Claims.” (Agnew Decl., Ex. 1 at p. 12:1-6.) The settlement agreement defines “Released
19 Claims” as “[a]ll claims for civil PAGA penalties, including attorneys’ fees and costs related
20 thereto, that were alleged, or reasonably could have been alleged, based on the facts stated in the
21 PAGA Notice and Complaint for violation of Labor Code sections 201, 202, 203, 226(a), 510,
22 558, 1194, 1197 and 1197.1 during the PAGA Period.” (*Id.* at p. 5:22-25.)

23 The foregoing releases are appropriately tailored to the allegations at issue. (See *Amaro*
24 *v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.)

V. FAIRNESS OF THE SETTLEMENT

Defendants have determined that “PAGA Employees worked approximately 13,210 pay periods during the PAGA Period.” (Agnew Decl., ¶ 15.) According to Plaintiff, assuming he were “to prevail on the merits of the PAGA claim, applying the standard penalty of \$100 per pay period yields \$1,321,000 in potential liability.” (*Id.* at ¶ 23.) “In the alternative, if the Court were to ‘stack’ penalties, (*ie*, award multiple PAGA penalties for different Labor Code violations in the same pay period), the potential PAGA penalties could total as high as \$2,648,100 . . .” (*Ibid.*, emphasis original.) Without stacking, “the Gross Settlement Amount is approximately 25% of the maximum amount of penalties at issue.” (MPA, p. 12:17-19.) “[W]ith stacking, the Gross Settlement is approximately 12.47% of the maximum penalties.” (*Id.* at p. 12:21-22.)

Plaintiff states that although he “is reasonably confident that he would prevail at trial, proceeding in litigation entails significant risk on the underlying merits of Plaintiff’s theories, in addition to the still-developing law under PAGA.” (MPA, p. 8:18-20.) The parties engaged in arms-length negotiations. (*Id.* at p. 3:1-6.) Considering the various rationales provided by Plaintiff, the settlement, which represents approximately 25 or 12 percent (with and without penalty stacking, respectively) of the maximum potential PAGA penalties, achieves a good result for the aggrieved employees. (See *id.* at p. 12:13-22.)

While the PAGA statute does not expressly require judicial review of claimed attorney fees, the court believes it cannot adequately fulfill its statutory duty to review the penalties associated with PAGA settlements without also considering attorney fees. The court thus finds that it must scrutinize the attorney fee arrangement associated with a PAGA settlement. (See *U.S. v. Texas Instruments Corp.* (9th Cir. 1994) 25 F.3d 725, 728 [attorney fee award must be considered by the trial court as part of its review of the “entire settlement arrangement”].)

1 Plaintiff's counsel seeks a fee award of \$110,083.33 (one-third of the gross settlement
2 amount). (Agnew Decl., ¶ 20.) Counsel Kristen M. Agnew submits evidence of a lodestar of
3 \$54,160, based on a total of 67.70 hours billed at a rate of \$800 per hour. (Agnew Decl., ¶ 43,
4 Ex. 3.) Counsel Larry W. Lee submits evidence of a lodestar of \$27,180, based on a total of
5 30.20 hours billed at a rate of \$900 per hour. (Declaration of Justin Bui, ¶¶ 7, 8, Ex. 1.) The
6 benefits achieved by the settlement justify an award of attorney fees to Plaintiff's counsel, and
7 that the requested attorney fee award is reasonable. Therefore, the court approves an attorney
8 fees award in the amount of \$110,083.33. (See *Laffitte v. Robert Half Intern. Inc.* (2016) 1
9 Cal.5th 480, 487, 503-504 [trial court did not abuse its discretion in approving fee award of 1/3
10 of the common fund, cross-checked against a lodestar resulting in a multiplier of 2.03 to 2.13];
11 *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255 [“[m]ultipliers can range from
12 2 to 4 or even higher”], disapproved of on other grounds by *Hernandez v. Restoration Hardware,*
13 *Inc.* (2018) 4 Cal.5th 260); *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051, fn.
14 6 [stating that multipliers ranging from one to four are typical in common fund cases and citing
15 the court's own survey of large settlements finding “a range of 0.6-19.6, with most (20 of 24, or
16 83%) from 1.0-4.0 and a bare majority (13 of 24, or 54%) in the 1.5-3.0 range”].)

17 Plaintiff's counsel requests reimbursement of litigation costs in the amount of \$6,554.16.
18 (See Agnew Decl., Ex. 4.) The court finds the requested amount to be reasonable and approves
19 litigation costs in the amount of \$6,554.16. The settlement administration costs are also
20 approved in the requested amount of \$6,950, which is the maximum set by the agreement.
21 (Agnew Decl., Ex. 1 at p. 5:26-28.) Counsel for Plaintiff, and a representative from Phoenix
22 Administrators, submit evidence from the proposed settlement administrator supporting an award
23 in the amount requested. (See Agnew Decl., ¶ 19; Declaration of Jodey Lawrence, Ex. B.)
24
25

1 A PAGA case is a representative action like a class action, and courts have recognized
2 that an individual's willingness to act as a private attorney general may merit a service award.
3 (See *Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 959.) Plaintiff has
4 submitted initial and supplemental declarations describing his participation in this action. (See
5 Declaration of Justin Bui, ¶¶ 1-9.) The court also acknowledges that Plaintiff has undertaken
6 risk by attaching his name to this case because doing so could impact his future employment.
7 (See *Covillo v. Specialty's Café* (N.D. Cal. 2014) 2014 U.S. Dist.LEXIS 29837, at p. 29
8 [incentive awards are particularly appropriate where a plaintiff undertakes a significant
9 "reputational risk" in bringing an action against an employer].) Given these considerations, the
10 court finds that Plaintiff's request for a service award of \$10,000 is reasonable and justified. The
11 service award is therefore approved.

12 VI. ADMINISTRATION PROCESS

13 "Within ten (10) business days after the Effective Date, and to the extent the information
14 is available, Defendants shall provide the Settlement Administrator with a Microsoft Office
15 Excel spreadsheet and shall include each PAGA Employee's; full name; employee number; most
16 recent mailing address; social security number; and number of pay periods in which each PAGA
17 Employee worked at least one shift during the PAGA Period. Within five (5) business days after
18 the payment of the entire Gross Settlement Amount, the Settlement Administrator will issue (a)
19 the Individual Settlement Payments to the PAGA Employees; (b) the LWDA Payment to the
20 LWDA; (c) the Enhanced Payment to Plaintiff; (d) the Attorneys' Fees and Costs to Plaintiff's
21 Counsel. The Settlement Administrator will issue the appropriate tax forms for all payments
22 issued under this Settlement. The Settlement Administrator will issue each PAGA Employee a
23 check for his or her Individual Settlement Payment. Checks will remain negotiable for 180 days.
24 Any checks returned as non-deliverable on or before the check cashing deadline will be sent
25 promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. Those

1 funds represented by settlement checks returned as undeliverable and the funds which
2 correspond with the settlement checks that are not negotiated within one hundred and eighty
3 (180) calendar days after issuance shall be remitted to the cy pres recipient, Legal Aid at Work.”
4 (Agnew Decl., Ex. 1 at pp. 10:25-11:15.) These notice procedures are appropriate and are
5 approved.

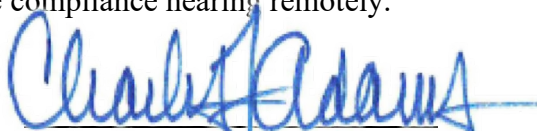
6 VII. CONCLUSION AND ORDER

7 Plaintiff’s motion for approval of the parties’ PAGA settlement is GRANTED. The
8 covered individuals are: all current and former non-exempt employees of Defendants in the state
9 of California who worked at least one shift at any time from March 13, 2023 through October 30,
10 2023.

11 Judgment shall be entered through the filing of this order and judgment. (Code Civ. Proc.,
12 § 668.5.) Plaintiff and the Aggrieved Employees shall take from the PAGA claim only the relief
13 set forth in the parties’ settlement agreement and this order and judgment. The court retains
14 jurisdiction over the parties to enforce the terms of the PAGA settlement agreement and the final
15 order and judgment.

16 The Court sets a compliance hearing for **October 2, 2025, at 2:30 p.m.** in Department 7.
17 At least ten court days before the hearing, Plaintiff’s counsel and the settlement administrator
18 shall submit a summary accounting of the net settlement fund identifying distributions made as
19 ordered herein; the number and value of any uncashed checks; amounts remitted the Unclaimed
20 Property Fund; the status of any unresolved issues; and any other matters appropriate to bring to
21 the Court’s attention. Counsel may appear at the compliance hearing remotely.

22 DATED: March 21, 2025

23 
24 CHARLES F. ADAMS
25 Judge of the Superior Court