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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

MICHAEL BRADLEY *et al.* Plaintiff, vs. THE CRACK SHACK ENTERPRISES, LLC *et al.* Defendants.	Case No. 24CL000768C *Hon. Blaine K. Bowman* *Dept. 74* **Notice of Entry of Order Granting PAGA Settlement Approval** Action Filed: July 11, 2024

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE NOTICE THAT:

1. On July 16, 2025, in this Department, the Court entered the Order Approving PAGA Settlement attached hereto as Exhibit 1.

2. A copy of this Notice has been submitted to the LWDA via its online electronic portal in accordance with Labor Code § 2699(s)(3).

3. Notice of the Court's final ruling is hereby provided.

Respectfully submitted,

Dated: August 12, 2025

Ferraro Vega Employment Lawyers, Inc.

Nicholas J. Ferraro

Nicholas J. Ferraro
Xavier L. Woodford
Attorneys for Plaintiff Michael Bradley

EXHIBIT 1

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Clerk of the Superior Court
By B. Montijo ,Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

MICHAEL BRADLEY *et al.* Plaintiffs, vs. THE CRACK SHACK ENTERPRISES, LLC *et al.* Defendants.	Case No. 24CL000768C *Hon. Blaine K. Bowman* *Dept. 74* **Joint Stipulation Requesting PAGA Settlement Approval; [~~Proposed~~] Order Approving PAGA Settlement** Action Filed: July 11, 2024

Plaintiff Michael Bradley ("Plaintiff") and Defendants The Crack Shack Enterprises, LLC, The Crack Shack Little Italy, LLC, The Crack Shack Costa Mesa, LLC, The Crack Shack Encinitas, LLC, and The Crack Shack Pacific Beach, LLC ("Defendants") have reached a settlement of Plaintiff's claims brought under the Private Attorneys General Act ("PAGA") (together, Plaintiff and Defendants are "the Parties"). The Parties, through this Stipulation, request that the Court sign the Proposed Order approving the PAGA Settlement under Labor Code section 2699(s)(2). The relevant facts related to the Settlement are detailed below and in the declaration of Nicholas J. Ferraro, filed concurrently herewith.

I. BACKGROUND

On May 6, 2024, Plaintiff submitted a notice to the Labor and Workforce Development Agency ("LWDA") asserting claims for civil penalties under the PAGA on behalf of himself and the other non-exempt employees employed by Defendants. *See* Declaration of Nicholas J. Ferraro ("Ferraro Decl.)", ¶ 12. On July 11, 2024, Plaintiff filed a PAGA representative action in San Diego Superior Court. Ferraro Decl., ¶ 3. In the Complaint, Plaintiff requested civil penalties under California Labor Code sections 2699, *et seq.*

On February 28, 2025, after exchanging relevant documents and information, the Parties attended private mediation with experienced mediator, Steve Pearl, during which the Parties reached a resolution of Plaintiff's PAGA Action. Ferraro Decl., ¶¶ 12-13. The Parties memorialized the terms of the settlement in a long-form settlement agreement, which was fully executed by the Parties on May 29, 2025. Ferraro Decl., ¶ 14, Ex. 1. A copy of the Settlement is attached to the declaration of Nicholas J. Ferraro as <u>Exhibit 1</u>.

On May 30, 2025, Plaintiff electronically submitted Notice of Proposed Settlement of this PAGA action to the LWDA via the LWDA's online filing system. Ferraro Decl., ¶ 15.

II. LEGAL STANDARD

A. The PAGA Settlement May Be Approved.

PAGA settlements require judicial review and approval. Cal. Lab. Code § 2699(s)(2). The criteria for review and approval are not well-developed, but when a PAGA claim is settled, the relief provided for must be genuine and meaningful, consistent with the purpose of the statute to benefit the public. *See Haralson v. U.S. Aviation Services Corp.* (N.D. Cal. 2019) 383 F. Supp.3d 959, 971-972. PAGA representative actions are different than class actions. *Kim v. Reins Int'l Inc.* (2020) 9 Cal. 5th 73, 86. As such, the settlement of a PAGA action is not evaluated subject to the same requirements as class actions, though courts like this one can and often do consider the factors applicable to class action settlements when reviewing PAGA settlements. "[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. However, the factors used to assess the reasonableness of class settlements may be used for PAGA settlements. *See, e.g., Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801; *Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 240; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116 (factors include the (1) strengths of plaintiffs' case; (2) risk, expense, complexity, and duration of further litigation; (3) amount offered in settlement; (4) discovery and investigation completed; (5) experience and views of counsel; and (6) governmental participant involvement).

As detailed in full in the **Declaration of Nicholas J. Ferraro**, each of these factors support approval of the PAGA settlement. Defendants dispute all of the claims asserted in Plaintiff's complaint and reiterate that they are resolving this case without admission of liability.

B. The Fees and Costs May Be Approved.

The Settlement authorizes attorneys' fees of up to 33.33% of the Gross Settlement Amount. Ferraro Decl., ¶ 20, Ex. 1. The purpose of the percentage method is to avoid unjust enrichment by spreading the litigation costs proportionally among all the beneficiaries. See, *e.g., Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 47. This approach incentivizes lawyers to undertake risks of time and resources to vindicate the public interest and protect the policies underlying the wage laws. In the case of a common fund—like the one in this case where there is no reversion or claims process—the percentage method is the preferred method:

> The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation ... —convince us the percentage method is a valuable tool that should not be denied our trial courts.

Laffitte v. Robert Half International, Inc. (2016) 1 Cal. 5th 480, 503 (citations omitted). "[R]egardless whether the percentage method or the lodestar method is used, fee awards in class [and representative] actions average around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n. 11. Defendants do not oppose a request by Plaintiff's counsel for attorneys' fees in an amount that does not exceed 33.33% of the Gross Settlement Amount (i.e., $49,995). Plaintiff contends that attorneys' fees to Plaintiff's counsel in the amount of 33.33% of the Settlement is reasonable and should be approved, which are further authorized by statute via Labor Code § 2699(k)(1). See generally Ferraro Decl., ¶¶ 20-40.

Plaintiff's counsel is entitled to reimbursement of the out-of-pocket costs they reasonably incurred investigating and prosecuting this case. *See In re Media Vision Tech. Sec. Litig.*, 913 F. Supp. 1362, 1366 (N.D. Cal. 1995) (citing Mills *v. Electric Auto-Lite Co.*, 396 U.S. 375, 391-92 (1970)). Counsel expended a total of $16,239.65 in ordinary and reasonable litigation expenses. See Ferraro Decl. ¶ 21. Counsel's request for litigation costs should be granted in accordance with the Settlement Agreement, which allows for reimbursement of *up to* $16,239.65 in costs, which are recoverable by statute under the Labor Code and Code of Civil Procedure, including Code of Civil Procedure § 1021.5 and Labor Code § 2699(k)(1). The itemized statement of counsel's costs is set forth in the declaration of Nicholas J. Ferraro. Ferraro Decl., ¶ 21.

C. The Named Plaintiff's Individual Payment May Be Approved.

Service awards are common in California class and representative actions, but there are no published California opinions available to Plaintiff's knowledge discussing the standard governing such payments in PAGA only actions like this one. Therefore, Plaintiff addresses the appropriateness of the service award under the same heightened standard used for class action settlements, as follows:

A "representative is entitled to a fee in a California class action." *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1394 (2010). Service awards "are fairly typical in class action[s]," "to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action." *Id.* To determine whether a service award is reasonable, courts may consider: (1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995).

The service award is justified considering the reputational risk Plaintiff assumed by litigating these claims against a former employer. *See Wren v. RGIS Inventory Specialists*, 2011 WL 1230826, at *36 (N.D. Cal. Apr. 1, 2011) (discussing risks for employees who file wage and hour class actions); *Billinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 267-68 (N.D. Cal. 2015) (finding "personal detriment" upon testimony that future employers can easily learn that a prospective employee served as a plaintiff through the internet); *La Fleur v. Medical Management Intern, Inc.*, 2014 WL 2967475, *8 (C.D. Cal. June 25, 2014) (awarding $15,000 to each named plaintiff in part for attesting to their fear that the lawsuit will harm their future job prospects in the industry).

The risk of judgment for the employer's litigation costs, alone, is sufficient to support Plaintiff's service award. *See Earley v. Superior Court*, 79 Cal. App. 4th 1420, 1433-34 (2000).

Further, the service award is appropriate because Plaintiff derives no monetary benefit from this case beyond what he would ordinarily receive as an ordinary aggrieved employee. *In re Toys 'R' Us-Delaware, Inc. FACTA Litig.*, 295 F.R.D. 438 (C.D. Cal. Jan. 17, 2014); *Van Vranken,* 901 F. Supp. 294, 299 (N.D. Cal. 1995). ***This is despite the fact that as part of the settlement Plaintiff agreed to a general settlement and release of all claims, including a 1542 waiver.*** Here, Plaintiff will recover no more than other employees, despite undergoing personal sacrifice in bringing this suit on their behalf. Plaintiff forwent the opportunity to file individual claims for his individual benefit alone so that he could vindicate the rights of others and recover compensation for them on a representative basis. Unlike other employees, Plaintiff faced the financial risk of a judgment for costs in the event Defendants had prevailed in this litigation. And Plaintiff delayed payment from what would be a relatively quick individual settlement in lieu of pursuing this action instead.

Plaintiff very respectfully submits these reasons under the foregoing legal standard, as further supported and discussed in the **Declaration of Michael Bradley** submitted herewith, in support of the request for the $10,000 service award.

III. STIPULATIONS

The Parties, through their attorneys of record, hereby stipulate that the PAGA settlement in this case is fair and reasonable.

Therefore, the Parties respectfully request that this Court approve the Settlement and sign the Proposed Order.

Respectfully submitted,

Dated: July 16, 2025 — ***Ferraro Vega Employment Lawyers, Inc.***

/s/ Nicholas J. Ferraro
Nicholas J. Ferraro
Xavier L. Woodford
Attorneys for Plaintiff Michael Bradley

Dated: July 16, 2025 — ***WILSON TURNER KOSMO LLP***

/s/ Geoffrey D. La Val
Emily J. Fox
Aimee Axelrod Parker
Geoffrey D. La Val
Attorneys for Defendants

[~~PROPOSED~~] ORDER

The Court has reviewed the Joint Stipulation Requesting PAGA Settlement Approval, the Declaration of Plaintiff Michael Bradley, the Declaration of Nicholas J. Ferraro, and its exhibits, including the Private Attorneys General Act Settlement Agreement and Release ("Settlement").

NOW, THEREFORE, THE COURT HEREBY ORDERS AS FOLLOWS:

The Parties' Joint Stipulation Requesting PAGA Settlement Approval is **GRANTED** and approved pursuant to California Labor Code section 2699(s)(2). After the attorneys' fees, individual representative service payment, costs, and administrator's expenses are deducted from the Gross Settlement Amount, the Net Settlement Amount is $63,765.35 of which 75% ($47,824.01) shall be distributed to the LWDA and the remaining 25% ($15,941.34) shall be distributed to the PAGA Members, defined as all individuals currently or formerly employed by Defendants in California as hourly, non-exempt employees from May 7, 2023 through February 4, 2025 (or the end of the PAGA Period, as defined in the Parties' Agreement), as their share of PAGA penalties on a pro rata basis according to the number of pay periods they worked in the PAGA Period.

Accordingly, the $150,000 gross settlement shall be distributed as follows:

1. $47,824.01 to the Labor and Workforce Development Agency for PAGA penalties
2. $15,941.34 to the PAGA Members
3. $10,000 to Plaintiff as an enhancement payment
4. $49,995 to Plaintiff's counsel for attorneys' fees
5. $16,239.65 to Plaintiff's counsel for costs
6. $10,000 to the Settlement Administrator

Plaintiff, Defendants, and the Settlement Administrator are ordered to carry out the terms of the settlement in accordance with the Parties' Settlement Agreement.

IT IS SO ORDERED

Date: 7-17-25

Hon. Blaine K. Bowman
Judge of the Superior Court