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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

DAVID VARGAS, on behalf of  
himself and all others similarly situated,

Plaintiff,

v.

CENTRAL FREIGHT LINES, INC.,  
and DOES 1 through 100, inclusive,

Defendants.

Case No. 3:16-cv-00507-L-JLB

**ORDER DENYING JOINT MOTION  
TO DISMISS CLAIMS UNDER THE  
PRIVATE ATTORNEYS GENERAL  
ACT OF 2004 (“PAGA”)**

Complaint Filed: February 26, 2016

Pending before the Court in this putative class action is Joint Motion to Dismiss Claims Under the Private Attorneys' General Act of 2004 ("PAGA") ("Joint Motion"). For the reasons which follow, the Joint Motion is DENIED.

The operative Second Amended Class Action Complaint ("SAC") alleges several California Labor Code violations, including failure to provide meal periods, rest breaks, properly itemized wage statements, and wages upon termination. The complaint also includes an unfair competition claim under California Business and Professions Code Section 17200, and a claim for PAGA penalties.

Plaintiff asserts that the putative class action is filed pursuant to Federal Rule of Civil Procedure 23, and alleges on behalf of "hundreds of employees . . . in non-

1 exempt positions" that "[f]or at least four years prior to filing of this action through  
2 the present, Defendants consistently maintained and enforced . . . unlawful practices  
3 and policies" of requiring the class members to work without the meal and rest periods  
4 they were entitled to and without compensating them for the missed meal and rest  
5 periods as required by the California Labor Code. (SAC at 2, 7, 5-6.) Plaintiff  
6 asserted that "the amount of the aggregate claim of all Class Members is likely over  
7 the \$5,000,000 threshold of the Class Action Fairness Act." (*Id.* at 3-4.)

8         The parties propose to settle the PAGA claim for a total of \$7,500, of which  
9 \$1,875 would be distributed to the class members, and \$5,625 would be distributed to  
10 the California Labor & Workforce Development Agency. The Joint Motion seeks  
11 dismissal of the complaint in its entirety under the proposed settlement's broad release  
12 provision. The proposed judgment would bind not only the named Plaintiff but also  
13 all putative class members, although no class has been certified and no notice of the  
14 settlement to the putative class members is contemplated by the agreement. The  
15 parties seek approval of the settlement pursuant to California Labor Code Section  
16 2699.3(b)(4) "to ensure that the settlement provisions are at least as effective as the  
17 protections or remedies provided by state and federal law or regulation for the alleged  
18 violation."

19         Based on the information provided in the Joint Motion, and review of the  
20 allegations in the Second Amended Complaint and the proposed settlement  
21 agreement, the settlement does not meet the standard set forth in section 2699.3(b)(4).  
22 The Joint Motion is therefore DENIED.

23         IT IS SO ORDERED.

24 Dated: April 10, 2017

25   
26 Hon. M. James Lorenz  
27 United States District Judge  
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