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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – POMONA COURTHOUSE SOUTH

LAUREN BRADY, individually, and on
behalf of other aggrieved employees
pursuant to the California Private
Attorneys General Act;

Plaintiff,

vs.

SEIDNER ENTERPRISES, LLC DBA
BERT'S MEGA MALL, a California
limited liability company; and DOES 1
through 100, inclusive,

Defendant.

Case No.: 20PSCV00276

Honorable Gloria White-Brown
Department J

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR APPROVAL OF PRIVATE
ATTORNEYS GENERAL ACT (CAL.
LABOR CODE § 2698,
ET SEQ.) SETTLEMENT AGREEMENT AND
AWARD OF ATTORNEYS'
FEES AND COSTS, SERVICE AWARD, AND
SETTLEMENT ADMINISTRATION COSTS;
MEMORANDUM OF POINTS AND
AUTHORITIES**

[Declaration of Plaintiff's Counsel
(Edwin Aiwazian); Declaration of Plaintiff (Lauren
Brady); and [Proposed] Order and Judgment filed
concurrently herewith]

Reservation No.: 967312543962305742508266
Date: April 5, 2021
Time: 10:00 a.m.
Department: J

Complaint Filed: April 13, 2020
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on April 5, 2021, at 10:00 a.m., or as soon thereafter as
2 the matter may be heard before the Honorable Gloria White-Brown in Department J of the
3 Superior Court of the State of California, for the County of Los Angeles, located at Pomona
4 Courthouse South, 400 Civic Center Plaza, Pomona, California 91766, Plaintiff Lauren Brady
5 (“Plaintiff”) will and hereby does move for entry of the following orders:

- 6 1. Granting approval, pursuant to California Labor Code section 2699(l)(2), of the
7 settlement between Plaintiff and Defendant Seidner Enterprises, LLC dba Bert’s
8 Mega Mall (“Defendant”) of the claims brought pursuant to the Private Attorneys
9 General Act of 2004 (“PAGA”), as set forth in the Private Attorneys General Act
10 Settlement Agreement (“Settlement,” “Agreement,” or “Settlement Agreement”),
11 attached as “**EXHIBIT 1**” to the Declaration of Edwin Aiwazian, including and not
12 limited to, the plan of allocation and distribution of the Gross Settlement Amount for
13 payment of the LWDA Payment to the Labor Workforce and Development Agency
14 (“LWDA”), Individual Settlement Payments to PAGA Employees, Attorneys’ Fees
15 and Costs to Plaintiff’s Counsel, Settlement Administration Costs to the Settlement
16 Administrator, and Service Award to Plaintiff;
- 17 2. Approving the PAGA Penalties, which will be distributed to the LWDA and the
18 PAGA Employees, pursuant to California Labor Code section 2699(i), of which
19 seventy-five percent (75%) will be paid to the LWDA (“LWDA Payment”) and
20 twenty-five percent (25%) will be paid to PAGA Employees;
- 21 3. Appointing Phoenix Settlement Administrators (“Phoenix”) as the Settlement
22 Administrator;
- 23 4. Directing Defendant to deposit the Gross Settlement Amount of \$315,000.00 into an
24 account for administration of the Settlement, and directing the Settlement
25 Administrator to distribute the Gross Settlement Amount in accordance with the
26 Settlement Agreement;
- 27 5. Directing the mailing of Individual Settlement Payments to the PAGA Employees
28 under a cover letter, which is substantially similar in content and form to the

[Proposed] Cover Letter attached as “**EXHIBIT A**” to the [Proposed] Order and Judgment Granting Approval of Private Attorneys General Act (Cal. Labor Code § 2698, Et Seq.) Settlement Agreement and Award of Attorneys’ Fees and Costs, Service Award, and Settlement Administration Costs (“Proposed Order and Judgement”) filed concurrently herewith;

6. Awarding \$7,500.00 to Plaintiff Lauren Brady as Service Award;
7. Awarding up to \$6,000.00 to the Settlement Administrator as Settlement Administration Costs; and
8. Awarding to Plaintiff’s Counsel, Lawyers for Justice, PC, up to \$126,000.00 as compensation for reasonable attorneys’ fees and \$9,994.02 for reimbursement of litigation costs and expenses (“Attorneys’ Fees and Costs”), pursuant to California Labor Code section 2699(g)(1).

The Settlement Agreement and moving and supporting papers for this motion are being concurrently submitted to the California Labor and Workforce Development Agency in conformity with California Labor Code section 2699(l)(2).

This motion will be based upon the following Memorandum of Points and Authorities, the Settlement Agreement, the Declarations of Plaintiff’s Counsel (Edwin Aiwazian) and Plaintiff (Lauren Brady) support thereof, as well as the pleadings and other records on file with the Court in this matter, and such evidence and oral argument as may be presented at the hearing on this motion.

Dated: March 11, 2021

LAWYERS for JUSTICE, PC

By:



Edwin Aiwazian
Attorneys for Plaintiff

TABLE OF CONTENTS

I.	SUMMARY OF MOTION.....	1
II.	FACTUAL BACKGROUND AND RELEVANT PROCEDURAL HISTORY	2
III.	SUMMARY OF THE SETTLEMENT TERMS.....	4
A.	PAGA Employees.....	4
B.	Distribution of the Gross Settlement Amount	4
C.	Distribution of the PAGA Penalties.....	4
D.	The Scope of the Release in the Settlement Agreement.....	6
E.	No Right to Object to, or Opt Out of, the Settlement	6
IV.	STANDARDS FOR APPROVAL OF PAGA SETTLEMENT.....	7
V.	THE SETTLEMENT IS FAIR AND SHOULD BE APPROVED	9
A.	The Factors Giving Rise to a Presumption of Fairness Exist	9
B.	The Relative Strength of the PAGA Claims and the Range of Possible Outcomes in the Litigation Strongly Favor Approval of the Settlement ...	11
C.	The Settlement Avoids Risky, Complex, and Lengthy Further Litigation	14
D.	The Settlement Is Fair, Adequate, and Reasonable	15
E.	The Experience and Views of Plaintiff’s Counsel Favor Approval of the Settlement	17
VI.	THE PROPOSED ATTORNEYS’ FEES PAYMENT IS FAIR AND REASONABLE, AND SHOULD BE APPROVED	18
A.	A Fee Award of a Percentage of the Entire Fund Is Appropriate.....	18
B.	The Fee Award Requested by Plaintiff’s Counsel Is Reasonable Based on the Factors Considered in Determination of Fee Awards.....	22
1.	<i>Time & Labor</i>	22
2.	<i>The Skill Required to Perform Legal Services Properly</i>	23
3.	<i>The Value of the Settlement</i>	24
4.	<i>Whether the Fee Is Fixed or Contingent</i>	25
5.	<i>The Amount Involved and the Results Achieved</i>	25

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2
3
4
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6.	<i>The Reputation and Ability of the Attorneys</i>	26
C.	The Lodestar Methodology Also Justifies Approval of the Requested Fees, Because Plaintiff’s Counsel Has Performed Work That Is of Significant Value Based on Reasonable Hours and Prevailing Hourly Rates of Compensation	26
1.	<i>Plaintiff’s Counsel Performed Work for a Reasonable Number of Hours</i>	27
2.	<i>The Fees Requested Represent a Reasonable Hourly Rate of Compensation in Light of Plaintiff’s Counsel’s Efforts and Experience</i>	28
VII.	COSTS TO BE REIMBURSED TO PLAINTIFF’S COUNSEL ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED	29
VIII.	THE PROPOSED COVER LETTER TO THE PAGA EMPLOYEES SHOULD BE APPROVED	30
IX.	THE PROPOSED SETTLEMENT ADMINISTRATION COSTS ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED	30
X.	THE PROPOSED SERVICE AWARD IS FAIR, ADEQUATE, AND REASONABLE, AND SHOULD BE APPROVED	31
XI.	CONCLUSION.....	32

TABLE OF AUTHORITIES

Cases

<i>Ali v. U.S.A. Cab Ltd.</i> (2009) 176 Cal.App.4th 1333.....	13
<i>Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court.</i> (2009) 46th Cal.4th 993	7
<i>Amaral v. Cintas Corp. No. 2</i> (2008) 163 Cal.App.4th 1157	14
<i>Arias v. Superior Court</i> (2009) 46 Cal.4th 969.....	7, 8
<i>Bell v. Farmers Ins. Exch.</i> (2004) 115 Cal.App.4th 715.....	32
<i>Boyd v. Bechtel Corp.</i> (N.D. Cal. 1979) 485 F.Supp. 610	11
<i>Brinker Restaurant Corp. v. Superior Court</i> (2012) 53 Cal.4th 1004	12, 13
<i>Casida v. Sears Holdings Corp.</i> (E.D. Cal. Jan. 26, 2012) 2012 WL 253217.....	8
<i>Chu v. Wells Fargo Invs., LLC</i> (N.D. Cal. Feb. 16, 2011) 2011 WL 672645	9
<i>City of Oakland v. Oakland Raiders</i> (1988) 203 Cal.App.3d 78	30
<i>Clark v. Am. Residential Servs., LLC</i> (2009) 175 Cal.App.4th 785	32
<i>Class Plaintiffs v. City of Seattle</i> (9th Cir. 1992) 955 F.2d 1268.....	15
<i>Consumer Privacy Cases</i> (2009) 175 Cal. App. 4th 545	21
<i>DCH Auto Wage and Hour Cases</i> , Los Angeles Superior Court, Case No. JCCP4833 (May 2017)	9, 17
<i>Duran v. U.S. Bank Nat. Assn.</i> (2014) 59 Cal.4th 1	12
<i>Elliot v. Spherion Pac. Work, LLC</i> (C.D. Cal. 2008) 572 F.Supp.2d 1169	11
<i>Estrada v. FedEx Ground Package Sys. Inc.</i> (2007) 154 Cal.App.4th	19
<i>Fireside Bank v. Superior Court</i> (2007) 40 Cal.4th 1069.....	7
<i>Franco v. Ruiz Food Prods.</i> (E.D. Cal Nov. 27, 2012) 2012 WL 5941801	9
<i>Garcia v. Gordon Trucking</i> (E.D. Cal. Oct. 31, 2012) 2012 WL 5364575	9
<i>Horton v. Jones</i> (1972) 26 Cal.App.3d 952	14
<i>In re Bluetooth Headset Prods. Liab. Litig.</i> (9th Cir. 2011) 654 F.3d 935.....	20
<i>Ingram v. The Coca-Cola Co.</i> (N.D. Ga. 2001) 200 F.R.D. 685	32
<i>Iskanian v. CLS Transportation Los Angeles, LLC</i> , (2014) 58 Cal.4th 348	7
<i>Ketchum v. Moses</i> (2001) 24 Cal.4th 1122	20

1	<i>Kirkorian v. Borelli</i> (N.D. Cal. 1988) 695 F.Supp. 446.....	11
2	<i>Laffitte v. Robert Half Int’l, Inc.</i> (2016) 1 Cal.5th 480	19, 20, 27
3	<i>Lealao v. Beneficial Cal., Inc.</i> (2000) 82 Cal.App.4th 19	20
4	<i>Liuy v. Merrill Lynch & Co.</i> (C.D. Cal. Nov. 10, 2014) No. CV-14-0425-PA, WL 5904904 ..	13
5	<i>Martinez vs. Joe’s Crab Shack Holdings, et al.</i> (2014) 231 Cal.App.4th 362.....	12
6	<i>Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.</i> (C.D. Cal. Jan. 5, 2004) 221 F.R.D. 523....	15
7	<i>Nordstrom Commissions Case</i> (2010) 186 Cal.App.4th 576.....	9
8	<i>Ochoa-Hernandez v. CJADERS Foods, Inc.</i> (N.D. Cal. Apr. 2, 2010) 2010 WL 1340777	9
9	<i>Officers for Justice v. Civil Service Comm’n</i> (9th Cir. 1981) 688 F.2d 615.....	16
10	<i>Pedroza v. PetSmart, Inc.</i> (C.D. Cal. Jan. 28, 2013) 2013 WL 1490667	8
11	<i>Resendez v. Bridgestone Retail Operations, LLC</i> , Los Angeles Superior Court, Case No. BC596892 (June 2016)	9
12	<i>Richmond v. Dart Industries, Inc.</i> (1981) 29 Cal.3d 462,.....	7
13	<i>Safeway v. Superior Court</i> (2015) 238 Cal.App.4th 1138	12
14	<i>Satchell v. Fed. Express Corp.</i> (N.D. Cal. Apr. 13, 2007) 2007 WL 1114010	11
15	<i>Sav-On Drug Stores, Inc. v. Superior Court</i> (2004) 34 Cal.4th 319.....	12
16	<i>Schiller v. David’s Bridal, Inc.</i> (E.D. Cal. June 11, 2012) 2012 WL 2117001,	9
17	<i>Stafford v. Dollar Tree Stores, Inc.</i> (E.D. Cal. Nov. 21, 2014) 2014 WL 6633396	13
18	<i>Sutter Health Uninsured Pricing Cases</i> (2009) 171 Cal.App.4th 495.....	30
19	<i>Thomas v. Aetna Health of Cal., Inc.</i> (E.D. Cal. June 2, 2011) 2011 WL 2173715	8
20	<i>Thurman v. Bayshore Transit Management, Inc.</i> (2012) 203 Cal.App.4th 1112	14
21	<i>Tyson Foods, Inc. v. Bouaphakeo</i> (2016) 136 S.Ct. 1036.....	12
22	<i>Vo v. Las Virgenes Municipal Water Dist.</i> (2000) 79 Cal.App.4th 440	27
23	<i>Wershba v. Apple Computer, Inc.</i> (2001) 91 Cal.App.4th 224	10
24	<i>Williams v. Superior Court</i> (2017) 3 Cal.5th 531	7, 8, 18
25	Statutes	
26	Cal. Lab. Code § 2699(g)(1)(i)	18
27	Cal. Lab. Code § 2699(j).....	9
28	Cal. Lab. Code § 2699(l)(2)	1, 8

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Cal. Lab. Code §§ 2698, *et seq.* 1

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. SUMMARY OF MOTION**

3 Plaintiff Lauren Brady (“Plaintiff”) seeks approval of the Private Attorneys General Act
4 Settlement Agreement (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into
5 between Plaintiff, individually and on behalf of the State of California and other PAGA
6 Employees, and Defendant Seidner Enterprises, LLC dba Bert’s Mega Mall (“Defendant”),
7 pursuant to California Labor Code section 2699(1)(2).¹

8 Subject to approval by the Court, Plaintiff and Defendant (collectively, the “Parties”)
9 have agreed to resolve the above-captioned action, brought pursuant to the Private Attorneys
10 General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”), for a Gross
11 Settlement Amount of \$315,000.00.²

12 The Gross Settlement Amount is inclusive of: (1) all Individual Settlement Payments to
13 Plaintiff and all current and former hourly-paid employees who worked for Defendant within
14 the State of California during the Settlement Period (“PAGA Employees”), (2) payment of 75%
15 of the PAGA Penalties to the California Labor and Workforce Development Agency
16 (“LWDA”), (3) Attorneys’ Fees and Costs to be paid Lawyers *for* Justice, PC (“Plaintiff’s
17 Counsel”), (4) Service Award to be paid to Plaintiff, and (5) Settlement Administration Costs to
18 be paid to the Settlement Administrator.³

19 The PAGA Penalties will be the Gross Settlement Amount less the Court-approved
20 Attorneys’ Fees and Costs, Settlement Administration Costs, and Service Award.⁴ The PAGA
21 Penalties will be distributed as follows: seventy-five percent (75%) to the LWDA (“LWDA
22 Payment”) and twenty-five percent (25%) to PAGA Employees (“Employee Amount”).⁵ Each
23 PAGA Employee will be entitled to payment of a *pro rata* share of the Employee Amount, based
24

25 ¹ Private Attorneys General Act Settlement Agreement (“Settlement Agreement”) is attached as “**EXHIBIT 1**” to
26 the Declaration of Edwin Aiwasian in Support of Plaintiff’s Motion for Approval of PAGA Settlement Agreement
27 (“Aiwasian Decl.”).

28 ² Settlement Agreement, § III.25.

³ *Id.*, §§ III.25(a),(b), and (d), III.27, and III.29. “Settlement Period” means the period from February 6, 2019 to
December 31, 2020.

⁴ *Id.*, § III.27.

⁵ *Ibid.*

on the number of pay periods that he or she was issued a wage statement by Defendant during the period from February 6, 2019 through December 31, 2020 (“Pay Periods”).⁶ The payments to PAGA Employees will be characterized one hundred percent (100%) as penalties.⁷

Plaintiff submits that the Settlement is fair, adequate, and reasonable, and meets the requirements for approval by the Court based upon the relevant fairness factors, the relative strengths of the PAGA claims, the risk, expense, and complexity of further litigation, the benefit conferred by the Settlement, the scope of the release of claims, the experience and views of counsel, and the reasonableness of the PAGA Penalties (consisting of the LWDA Payment and Individual Settlement Payments), Attorneys’ Fees and Costs, Settlement Administration Costs, and Service Award. Plaintiff respectfully requests that this Court approve the Settlement, award Attorneys’ Fees and Costs, Settlement Administration Costs, and Service Award and approve the LWDA Payment, which are provided for by the Settlement and requested herein.

II. FACTUAL BACKGROUND AND RELEVANT PROCEDURAL HISTORY

Defendant is a California limited liability company which employs individuals throughout the state of California, including Los Angeles County. Bert’s Mega Mall is a motorcycle and powersports dealership located in Covina, California. Bert’s Mega Mall advertises itself as the nation’s largest motorcycle, watercraft and ATV superstore. Plaintiff Lauren Brady is a former employee.

Prior to commencing a lawsuit, on February 6, 2020, as required by California Labor Code section 2699.3, Plaintiff Lauren Brady provided the LWDA with written notice of her intent to assert claims under PAGA and the basis for those claims, to which the LWDA did not respond.⁸ In conformity with the applicable requirements under the PAGA statute, on April 13, 2020, Plaintiff Lauren Brady filed the Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“Operative Complaint”) in Los Angeles County Superior Court, Case No. 20PSCV00276 (“Action”).

///

⁶ Settlement Agreement, §§ I.11, I.17 and III.28.

⁷ *Id.*, § III.35.

⁸ *Id.*, § II.18, and Aiwazian Decl., ¶ 10.

1 Plaintiff's core allegation is that Defendant has violated the California Labor Code by
2 engaging in a uniform practice and procedure, with respect to Plaintiff and other PAGA
3 Employees, of, *inter alia*, failing to pay overtime wages, failing to provide compliant meal and
4 rest periods and associated premiums, failing to pay minimum wages during employment,
5 failing to pay timely wages during employment and upon termination of employment, failing to
6 provide complete and accurate itemized wage statements, failing to keep and maintain complete
7 and accurate payroll records, and failing to reimburse necessary business expenses and costs.

8 On May 13, 2020, Defendant filed a Notice of Appearance. Defendant maintained, and
9 continues to maintain, that it had, and continues to have, legally-compliant employment policies
10 and practices throughout the time period at issue. Defendant denies that it ever violated any
11 provision of the California Labor Code, including, but not limited to, those sections for which
12 Plaintiff seeks penalties under the PAGA.

13 The Parties have actively litigated the Action since it was commenced and conducted
14 significant investigation into the facts of the case and formal and informal discovery. On
15 November 9, 2020, the Parties participated in a full-day mediation conducted by Steven J.
16 Rottman, Esq., a well-regarded mediator experienced in mediating complex labor and
17 employment matters. With the aid of the mediator's evaluation, the Parties were able to reach
18 the Settlement described herein.

19 Plaintiff now moves for an order granting approval of the Settlement pursuant to
20 California Labor Code section 2699(1)(2). The Settlement Agreement and moving and
21 supporting papers for this motion are being submitted to the LWDA in conformity with
22 California Labor Code section 2699(1)(2), concurrently with this filing.⁹

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27 _____
28 ⁹ The Court is referred to the concurrently filed Proof of Service, which confirms submission of the papers to the LWDA.

1 **III. SUMMARY OF THE SETTLEMENT TERMS**

2 **A. PAGA Employees**

3 The PAGA Employees who are covered by the Settlement are:

4 Plaintiff and all current and former non-exempt employees who worked for
5 Defendant within the State of California during the Settlement Period.¹⁰

6 Based on information provided by Defendant, there are approximately two hundred
7 eighty-five (285) PAGA Employees.¹¹

8 **B. Distribution of the Gross Settlement Amount**

9 Under the terms of the Settlement Agreement, Defendant will pay a Gross Settlement
10 Amount of \$315,000.00.¹² The PAGA Penalties will be the Gross Settlement Amount less the
11 following amounts: (1) Attorneys' Fees and Costs, consisting of attorneys' fees of up to
12 \$126,000.00 and reimbursement of litigation costs and expenses of \$9,994.02 to Plaintiff's
13 Counsel; (2) Service Award of up to \$7,500.00 to Plaintiff; and (3) Settlement Administration
14 Costs in the amount not in excess of \$6,000.00 to Phoenix Settlement Administrators ("Phoenix"
15 or "Settlement Administrator").¹³ The PAGA Penalties will be fully distributed to the PAGA
16 Employees and the State of California, as described in Section III.C, *infra*.

17 **C. Distribution of the PAGA Penalties**

18 Within thirty (30) calendar days after the Effective Date, Defendant will provide the
19 Settlement Administrator with a list containing the full name, last known mailing address, last
20 known telephone number, number of Pay Periods, dates of employment, and Social Security
21 number for each PAGA Employee ("PAGA Employee List").¹⁴ Within forty-five (45) calendar
22 days of the Effective Date, Defendant will fund the Gross Settlement Amount by way of wire
23 to the account to be established by the Settlement Administrator for purposes of administration
24 of the Settlement ("Settlement Administration Account").¹⁵

25 ///

26 ¹⁰ Settlement Agreement, § I.9. The "Effective Date" is the date the Court has signed and entered the Approval
Order. *Id.*, § I.5.

27 ¹¹ Settlement Agreement, § III.26.

28 ¹² *Id.*, § III.25.

¹³ *Id.*, §§ III.25, III.25(a), III.25(b), III.29, and III.32.

¹⁴ *Id.*, § VI.42.

¹⁵ *Id.*, § VI.43.

Seventy-five percent (75%) of the PAGA Penalties will be distributed to the LWDA (i.e., LWDA Payment) and twenty-five percent (25%) of the PAGA Penalties (i.e., the Employee Amount) will be distributed to the PAGA Employees on a *pro rata* basis, based on each of their number of Pay Periods.¹⁶ The Employee Amount will be divided by the total number of Pay Periods of all PAGA Employees to yield the “Pay Period Amount,” and then each PAGA Employee’s individual Pay Periods will be multiplied by the Pay Period Amount to yield his or her “Individual Settlement Payment.”¹⁷ Individual Settlement Payments will be characterized one hundred percent (100%) penalties to be reported on IRS Form 1099.¹⁸

Within sixty (60) calendar days after the Effective Date, the Settlement Administrator will distribute the Individual Settlement Payments to PAGA Employees by way of check (“Individual Settlement Checks”) and LWDA Payment to the LWDA.¹⁹ The Settlement Administrator will distribute the Individual Settlement Checks with a Cover Letter (together, the “Payment Packet”), substantially similar in content and form to the [Proposed] Cover Letter, which is attached as “Exhibit A” to the [Proposed] Order and Judgment.²⁰ For each Payment Packet that is returned to the Settlement Administrator as undeliverable within ninety (90) calendar days of the original mailing of the Payment Packet, the Settlement Administrator will undertake a skip trace to search to locate an alternate, updated address, and re-mail the Payment Packet.²¹

Individual Settlement Checks will remain valid and negotiable for one hundred eighty (180) calendar days after the initial mailing of the Payment Packet to PAGA Employees and will thereafter be cancelled.²² Any funds associated with cancelled Individual Settlement Checks will be transmitted to the State Controller’s Office Unclaimed Property Fund in the name of each PAGA Employee whose check is voided.²³

¹⁶ *Id.*, § III.28.

¹⁷ Settlement Agreement, § III.28.

¹⁸ *Id.*, § III.35.

¹⁹ *Id.*, §§ VI.43 and VI.44.

²⁰ *Id.*, § VI.44.

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.*

D. The Scope of the Release in the Settlement Agreement

Upon the Effective Date, Plaintiff and PAGA Employees will forever discharge Released Parties from the following claims:

any and all claims for civil penalties under PAGA, California Labor Code Section 2698, et seq., that are based upon or arise from the factual allegations in the Operative Complaint and/or Notice to the LWDA, arising during and/or with respect to period from February 6, 2019 to December 31, 2020. These include, but are not limited to claims for violation of and/or based on California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and Industrial Welfare Commission Wage Orders, and all claims for attorneys' fees and costs and statutory interest in connection therewith ("Released Claims").²⁴

The "Released Parties" are Defendant and its respective present and former officers, directors, employees, shareholders, agents, trustees, representatives, attorneys, insurers, parent companies, subsidiaries, divisions, affiliates, predecessors, successors, assigns, and any individual or entity that could be jointly liable with Defendant.²⁵

E. No Right to Object to, or Opt Out of, the Settlement

"[A] PAGA action is a statutory action for penalties brought as a proxy for the State," as such, "there is no need to protect absent employees' due process rights[.]" *Williams v. Superior Court* (2017) 3 Cal.5th 531, 546. "Unnamed employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of the representative PAGA claim." *Ochoa-Hernandez v. CJADERS Foods, Inc.* (N.D. Cal. Apr. 2, 2010), 2010 WL 1340777, at *5. A representative PAGA action need not satisfy class action requirements, and no due process concern arises from the fact that there are "nonparty aggrieved employees who are not given notice of, and an opportunity to be heard in, a representative action that is not brought as a class action." *Arias v. Superior Court* (2009) 46 Cal.4th 969, 984. "PAGA does not make other potentially aggrieved employees parties" to the action and no "due process concerns arise under PAGA because absent employees do not own a personal claim for PAGA civil penalties and whatever personal claims the absent employees might have for relief are not at stake." *Williams, supra*, 546-547 (internal references omitted, citing *Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court* (2009) 46 Cal.4th 993, 1003 and *Iskanian v. CLS Transportation*

²⁴ Settlement Agreement, § I.14; and Cover Letter, Exh. A.

²⁵ Settlement Agreement, § I.15; and Cover Letter, Exh. A.

1 *Los Angeles, LLC*, (2014) 58 Cal.4th 348, 381.)

2 “[A]bsent fellow employees will be bound by the outcome of any PAGA action[.]”
3 *Williams* at 548 (internal references omitted, citing *Arias, supra*, 980-981; *Fireside Bank v.*
4 *Superior Court* (2007) 40 Cal.4th 1069, 1074 and *Richmond v. Dart Industries, Inc.* (1981) 29
5 Cal, 3d 462, 474.) A “judgment in such an action is binding not only on the named employee
6 plaintiff but also on government agencies and any aggrieved employee not a party to the
7 proceeding” because “the employee plaintiff represents the same legal right and interest as state
8 labor law enforcement agencies[.]” “collateral estoppel applies [...] against those for whom the
9 party acted as an agent or proxy[.]” and “[w]hen a government agency is authorized to bring an
10 action on behalf of an individual or in the public interest, and a private person lacks an
11 independent right to bring the action, a person who is not a party but who is represented by the
12 agency is bound by the judgment as though the person were a party.” *Arias, supra*, at 985-86
13 (citations omitted).

14 As such, the Settlement is consistent with the law, and there is no requirement that PAGA
15 Employees be provided with a mechanism to opt out of or object to the Settlement.

16 **IV. STANDARDS FOR APPROVAL OF PAGA SETTLEMENT**

17 The PAGA allows an “aggrieved employee” to bring a civil action on behalf of himself
18 or herself and on behalf of other aggrieved employees and the State of California to recover civil
19 penalties which, outside of PAGA, only the LWDA can assess upon and collect from an
20 employer (Cal. Lab. Code § 2699(a)). Before bringing a civil action under PAGA, an employee
21 must comply with California Labor Code section 2699.3. *See* Cal. Lab. Code § 2699(a).
22 Plaintiff has complied.

23 The settlement of a PAGA action requires court approval. *See* Cal. Lab. Code §
24 2699(l)(2) (“The superior court shall review and approve any settlement of any civil action filed
25 pursuant to this part.”). However, “[a] PAGA claim asserted on a non-class representative basis
26 . . . is not considered a class action but a law enforcement action” and therefore does not have
27 to meet the requirements of a class action. *Casida v. Sears Holdings Corp.* (E.D. Cal. Jan. 26,
28 2012) 2012 WL 253217, at *3; *Thomas v. Aetna Health of Cal., Inc.* (E.D. Cal. June 2, 2011)

2011 WL 2173715, at *11; *Arias, supra*, 46 Cal.4th at 980-88 (affirming lower court’s holding that “plaintiff need not satisfy class action requirements” to assert a PAGA claim); *Pedroza v. PetSmart, Inc.* (C.D. Cal. Jan. 28, 2013) 2013 WL 1490667, at *15. As such, a court’s review of a PAGA settlement involves analysis of several unique features that render the approval process distinct from, and simpler than, the process for approval of a class action settlement. A court reviewing a PAGA settlement need only “ensur[e] that a negotiated resolution is fair to those affected.” *Williams, supra*, 549 (citing Cal. Lab. Code § 2699(1)(2)). Although California Labor Code section 2699(1) does not set forth the criteria on which a PAGA settlement is to be judged, courts have approved settlements of PAGA claims.²⁶ See, e.g., *Resendez v. Bridgestone Retail Operations, LLC*, Los Angeles Superior Court, Case No. BC596892 (June 2016), *DCH Auto Wage and Hour Cases*, Los Angeles Superior Court, Case No. JCCP4833 (May 2017); *Garcia v. Gordon Trucking* (E.D. Cal. Oct. 31, 2012) 2012 WL 5364575, at *3; *Schiller v. David’s Bridal, Inc.* (E.D. Cal. June 11, 2012) 2012 WL 2117001, at *14; *Chu v. Wells Fargo Invs., LLC* (N.D. Cal. Feb. 16, 2011) 2011 WL 672645, at *1; *Franco v. Ruiz Food Prods.* (E.D. Cal. Nov. 27, 2012) 2012 WL 5941801, at *14; *Nordstrom Commissions Case* (2010) 186 Cal.App.4th 576, 589.

In a PAGA case, the court’s focus is not the monetary amount which aggrieved employees or the State stand to receive, but instead, whether the total settlement amount achieves the PAGA’s objectives. The purpose of the PAGA is “to incentivize private parties to recover civil penalties for the government that otherwise may not have been assessed and collected by overburdened state enforcement agencies.” See *Ochoa-Hernandez, supra*, 2010 WL 1340777, at *4 (citing *Arias, supra*, 46 Cal.4th at 986). Penalties recovered under the PAGA are, in part, to “be distributed to the [LWDA] for enforcement of labor laws . . . and for education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes.” See Cal. Lab. Code § 2699(j). The recovery of penalties on behalf of the State, by way of a PAGA claim, is essentially a law enforcement action. See *Amalgamated, supra*, 46

²⁶ Aiwazian Decl., ¶ 7.

Cal.4th at 1003 (stating that the PAGA is a mechanism for “an aggrieved employee to recover civil penalties—for Labor Code violations—that otherwise would be sought by state labor law enforcement agencies”); see also *Iskanian, supra*, at 381.

A PAGA settlement is a settlement of claims for penalties and other remedies which the LWDA could assess and collect on behalf of employees without their involvement or approval. “[U]nnamed employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of the representative PAGA claim.” *Ochoa-Hernandez, supra*, 2010 WL 1340777, at *5. This renders the approval process of a PAGA settlement distinct from a class action settlement, and the Court need not employ the two-step approval process that applies to a class action settlement, under both state and federal law.

V. THE SETTLEMENT IS FAIR AND SHOULD BE APPROVED

The Settlement resulted from hard-fought negotiations, fulfills the objectives of the PAGA statute, is fair, adequate, and reasonable, and meets all of the criteria for approval for the reasons discussed below.

A. The Factors Giving Rise to a Presumption of Fairness Exist

The Parties reached the Settlement through arm’s-length negotiations, with the assistance of an experienced and respected mediator, Steven J. Rottman, Esq., after a full-day mediation and subsequent settlement negotiations.²⁷ A settlement that is “the product of extensive and hard-fought adversarial negotiations between the parties” is entitled to a presumption of fairness. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245.

The Settlement is presumptively fair because: (1) it is the product of non-collusive, arm’s-length negotiations that were overseen by an independent mediator knowledgeable in complex labor and employment matters; (2) it was negotiated by counsel with significant experience in similar complex labor and employment matters; and (3) it occurred after counsel for the Parties engaged in significant investigation to evaluate the strength and potential value of the PAGA claims, and the risks of litigating these claims through trial.²⁸

²⁷ Aiwazian Decl., ¶ 12.

²⁸ *Id.*, ¶¶ 4-7, 12-14, & 17-21.

1 After engaging in significant formal and informal discovery, the Parties participated in
2 settlement negotiations to try to resolve the matter.²⁹ These efforts included participating in
3 formal mediation conducted by Steven J. Rottman, Esq., a well-respected mediator experienced
4 in mediating complex labor and employment matters.³⁰ During mediation, the Parties discussed
5 all aspects of the case, including the risks and delays of further litigation, the risks to the Parties
6 of proceeding with trial, the law relating to representative PAGA actions, wage-and-hour
7 enforcement, the evidence produced and analyzed, and the possibility of bifurcation of discovery
8 and/or trial and appeals, among other things.³¹ During all settlement discussions, the Parties
9 conducted their negotiations at arm's length in an adversarial position.³²

10 Based on all of the information available to the Parties and with the aid of the mediator's
11 evaluation, the Parties agree that this matter is well-suited for settlement given the strengths and
12 weaknesses of the PAGA claim.³³ Plaintiff and Plaintiff's Counsel believe that the settlement
13 is a fair, adequate, and reasonable resolution of this matter.³⁴ Plaintiff's Counsel has extensive
14 experience handling representative and class action wage-and-hour litigation and used that
15 experience to achieve a great result for Plaintiff, the State of California, and the PAGA
16 Employees.³⁵ Therefore, the Court should give considerable weight to the competency,
17 experience, and opinion of counsel and the involvement of a neutral mediator in assuring that
18 the settlement is a product of arm's length bargaining. See *Kirkorian v. Borelli* (N.D. Cal. 1988)
19 695 F.Supp. 446, 451 (opinion of experienced counsel is entitled to considerable weight); *Boyd*
20 *v. Bechtel Corp.* (N.D. Cal. 1979) 485 F.Supp. 610, 616-17, 622 (recommendations of plaintiffs'
21 counsel should be given a presumption of reasonableness); see also *Satchell v. Fed. Express*
22 *Corp.* (N.D. Cal. Apr. 13, 2007) 2007 WL 1114010, at *4 (stating that the "assistance of an
23 experienced mediator in the settlement process confirms that the settlement is non-collusive").

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25 ²⁹ *Id.*, ¶ 12.

26 ³⁰ *Ibid.*

27 ³¹ Aiwazian Decl., ¶ 12.

28 ³² *Ibid.*

³³ *Id.*, ¶ 21.

³⁴ *Id.*, ¶ 29.

³⁵ *Id.*, ¶¶ 4-7.

B. The Relative Strength of the PAGA Claims and the Range of Possible Outcomes in the Litigation Strongly Favor Approval of the Settlement

In order for Plaintiff to prevail on the PAGA claims, she would have to prove the underlying California Labor Code violations, demonstrate that PAGA Employees suffered, and demonstrate that Defendant's conduct gives rise to penalties. See, e.g., *Elliot v. Spherion Pac. Work, LLC* (C.D. Cal. 2008) 572 F.Supp.2d 1169, 1181-82 ("Plaintiff's claim under [PAGA] is wholly dependent upon her other claims. Because all of Plaintiff's other claims fail as a matter of law, so does her PAGA claim.").

Plaintiff's core allegation is that Defendant has systematically violated the California Labor Code, with respect to Plaintiff and PAGA Employees, by, *inter alia*, failing to properly pay overtime and minimum wages, failing to provide compliant meal and rest periods and associated premiums, failing to timely pay wages during employment and upon termination of employment, failing to provide complete and accurate itemized wage statements, failing to keep and maintain complete and accurate payroll records, and failing to reimburse business expenses and costs.

Although wage-and-hour actions are amenable to resolution as to a group of employees,³⁶ some courts have also found that, for various reasons, the issues raised by Plaintiff

³⁶ See, e.g., *Martinez vs. Joe's Crab Shack Holdings, et al.* (2014) 231 Cal.App.4th 362, 383-84, *modified on other grounds by Martinez v. Joe's Crab Shack Holdings, et al.* (Dec. 3, 2014, B242807) 2014 Cal.App. LEXIS 1102, *1-2 (stating that difficult issues of proof do not vitiate the preference for efficient and effective means of resolving wage-and-hour claims, including misclassification and overtime, recognizing that "statistical sampling may provide assistance in identifying the realistic demands of the job and illuminating whether the typical employee was able to meet those expectations" and that "[b]y refocusing its analysis on the policies and practices of the employer and the effect those policies and practices have on the [employees] . . . the trial court may in fact find class analysis a more efficient and effective means of resolving Plaintiff's overtime claim"); *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 330-31 (Court successfully managed and adjudicated wage-and-hour claims made on behalf of a group of employees, utilizing, among other things, statistics and surveying.); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1033 ("Claims alleging that a uniform policy consistently applied to a group of employees is in violation of the wage and hour laws are of the sort routinely, and properly, found suitable for class treatment [...] The theory of liability – that [the employer] has a uniform policy, and that that policy, measured against wage order requirements, allegedly violates the law - is by its nature a common question eminently suited for class treatment."); *Safeway v. Superior Court* (2015) 238 Cal.App.4th 1138, 1159 (finding that real parties demonstrated that the existence of the practice and the fact of damage were matters suitable for determination on behalf of a group of employees and that, "[r]eal parties' evidence supports the reasonable inference that [...] they could establish that petitioners engaged in the alleged practice, that is, they never paid meal break premium wages, even though a significant number of employees accrued them. Furthermore, in view of real parties' theory of restitution, those facts would also suffice to demonstrate the fact of damage. Under that theory, the fact of damage does not require a showing that all -- or virtually all -- class members accrued unpaid meal break

(Footnote continued)

raise individualized issues and/or are unmanageable and thus not suitable for adjudication as to a group of employees.³⁷

Defendant contended that courts have required, and that due process requires, that the adjudication of PAGA claims meets a “manageability” requirement. See, e.g., *Liuy v. Merrill Lynch & Co.* (C.D. Cal. Nov. 10, 2014) No. CV-14-0425-PA, WL 5904904 at **3-4 (Court dismissed the PAGA claim because a multitude of individualized assessments would be necessary, making the PAGA claim unmanageable).

Defendant also maintained several defenses to Plaintiff’s theory of liability, which, if successfully argued and proven, had the potential to eliminate or substantially reduce recovery. Throughout this litigation, Defendant maintained, and continues to maintain, that it had, and continues to have, legally-compliant employment policies and practices throughout the time period at issue.³⁸ Defendant denies that it ever violated any provision of the California Labor Code, including, but not limited to, those sections for which Plaintiff seeks penalties under the PAGA.³⁹ Defendant further denied, and continues to deny, that the lawsuit is appropriate for representative treatment for any purpose other than settlement.⁴⁰

Defendant also challenged Plaintiff’s standing as PAGA Employees and denied that any of Defendant’s other employees whom Plaintiff seeks to represent are aggrieved.⁴¹ Also, at the

premium wages, but only that on a system-wide basis, petitioners denied the class members the benefits of the compensation guarantee and enhanced enforcement implemented by section 226.7.”); *Tyson Foods, Inc. v. Bouaphakeo* (2016) 136 S.Ct. 1036 (holding that statistical evidence is admissible to support class action certification because it is also admissible to prove liability and damages across a group of employees, where the defendant employer had not kept records of time spent by employees with respect to donning and doffing protective clothing).

³⁷ See, e.g., *Duran v. U.S. Bank Nat. Assn.* (2014) 59 Cal.4th 1, 25, 29, 31, and 34-35 (stating that even where it has been alleged “that the employer consistently imposed a uniform policy or de facto practice” as to its employees, “the party must still demonstrate that the illegal effects of this conduct can be proven efficiently and manageably” and in litigating representative actions the procedures utilized by the court “may not be used to abridge a party’s substantive rights,” including “abridge[ing the defendant’s] presentation of [a defense] simply because that defense was cumbersome to litigate,” because of “principles of due process”); *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341 (affirming denial of certification because employees’ declarations attesting to having taken meal and rest breaks demonstrated that individualized inquiries were required to show harm); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1018 (stating that employers must authorize, permit, or “relieve the employee of all duty for [a] designated meal [or rest] period,” and “relinquish [full] control over [the employee’s] activities” and “afford” employees an “opportunity to take an *uninterrupted* thirty-minute break,” but are not obligated to affirmatively ensure that no work related tasks are performed during such periods).

³⁸ *Aiwazian Decl.*, ¶ 19.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Id.*, ¶ 21.

time that this matter commenced, multiple courts had taken an approach requiring Plaintiff to establish standing and face the possibility of bifurcation of discovery and/or trial of the PAGA claim. See *Amalgamated Transit Union, supra*, 46 Cal.4th at 1001 (noting that PAGA “require[s] a plaintiff to have suffered an injury resulting from an unlawful action”); *Stafford v. Dollar Tree Stores, Inc.* (E.D. Cal. Nov. 21, 2014) 2014 WL 6633396, at *4 (finding that judicial economy supported bifurcation because of the difficulties and inherent uncertainties of being able to establish liability with respect to a large number of potentially aggrieved employees and noted that “PAGA’s public purpose would be ill-served if the court finds [the Plaintiff] has not been aggrieved by a Labor Code violation”); *Horton v. Jones* (1972) 26 Cal.App.3d 952, 955 (stating that bifurcation and sequencing of litigation is allowed to avoid wasting time and money on trial when litigation of issues could be rendered moot).

Defendant also argued that an important feature of PAGA is that the Court retains discretion to lower the penalties if, 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.” See Cal. Lab. Code § 2699(e)(2); see also *Thurman v. Bayshore Transit Management, Inc.* (2012) 203 Cal.App.4th 1112, 1136 (holding that a court may reduce the amount of PAGA penalties awarded to an employee based upon discretionary factors). Defendant maintained, and continues to maintain, that it had and continues to have, legally-compliant employment policies and practices throughout the time period at issue.⁴² Defendant denies that it ever violated any provision of the California Labor Code.⁴³ Even if, *arguendo*, such violations occurred, which Defendant denies, Defendant contended that said violations would only be considered “initial violations” and thus heightened “subsequent violation” penalties were not warranted. See Cal. Lab. Code § 2699(f)(2); see also *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1208-09 (“Until the employer has been notified that it is violating a Labor Code provision [...], the employer cannot be presumed to be aware that its continuing underpayment of employees is a ‘violation’ subject to penalties.”).

⁴² Aiwazian Decl., ¶ 19.

⁴³ *Ibid.*

Defendant also contended that, with respect to PAGA claims, the Court was unlikely to assess cumulative penalties for the maximum number of possible, separate California Labor Code violations, because it would be unjust, arbitrary, oppressive, and/or confiscatory, especially where certain conduct may be regulated by multiple provisions of the California Labor Code that are interrelated and work in tandem. As such, Defendant contended that cumulative penalties and heightened penalties would be unjust, arbitrary, oppressive, and confiscatory.

While Plaintiff maintains that her PAGA claims have merit, in reaching the settlement, Plaintiff and her counsel took into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded as litigation continued, at trial, and/or appeals.⁴⁴

C. The Settlement Avoids Risky, Complex, and Lengthy Further Litigation

Courts favor the voluntary conciliation and settlement of complex litigation. *Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276. Generally, "unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results." *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.* (C.D. Cal. Jan. 5, 2004) 221 F.R.D. 523, 526 (citation omitted).

Both sides used the pre-mediation time period to investigate the veracity, strength, and scope of the PAGA claims.⁴⁵ Prior to mediation and settlement discussions, Plaintiff's Counsel conducted formal and informal discovery and exchange of information.⁴⁶ In addition, the Parties exchanged a large volume of documents and data relevant to Plaintiff's claims and Defendant's defenses thereto, including, and not limited to, the employment records of Plaintiff, sampling of time and pay data, Defendant's employee handbook and Employee Acknowledgment Form, agreements, checklists (including, and not limited to New Hire Orientation Check Off List), internal memoranda, acknowledgments, and Defendant's operations and employment policies (including, and not limited to rest and meal periods policy, timekeeping policy, off-duty personal

⁴⁴ Aiwazian Decl., ¶ 22.

⁴⁵ *Id.*, ¶ 13.

⁴⁶ *Ibid.*

1 appearance, Bert's dress-code policy, bonus programs, overtime policy, and overtime on bonus
2 pay policy), practices, and procedures (including, and not limited to the E-Time System for
3 punching in and out), among other documents.⁴⁷ Counsel for the Parties undertook significant
4 investigation, and also invested time reviewing and analyzing relevant documents and data to
5 evaluate Plaintiff's claims, including, and not limited to, calculating the potential monetary
6 recovery under PAGA.⁴⁸

7 Had the case not settled, the Parties would have conducted additional extensive formal
8 discovery, including additional written discovery as well as multiple depositions of party and
9 percipient witnesses all over the State of California, to prepare the case for trial. From the
10 inception of this litigation, Defendant indicated that it would aggressively litigate this case.⁴⁹
11 Even if Defendant failed on its defenses, litigating complex PAGA actions is inherently
12 expensive, and the litigation could continue beyond entry of judgment if either party were to
13 appeal adverse rulings.⁵⁰ Additionally, there is a real possibility that Plaintiff would recover
14 nothing, either for herself or on behalf of the State of California or other PAGA Employees after
15 years of costly and labor-intensive litigation. Avoiding these risks and the likelihood of future
16 contentious litigation, which would involve significant costs, favors settlement.

17 **D. The Settlement Is Fair, Adequate, and Reasonable**

18 "[T]he very essence of a settlement is compromise, 'a yielding of absolutes and an
19 abandoning of highest hopes.'" *Officers for Justice v. Civil Service Comm'n* (9th Cir. 1981)
20 688 F.2d 615, 624. "The proposed settlement is not to be judged against a hypothetical or
21 speculative measure of what might have been achieved by the negotiators." *Id.* at 625.

22 The settlement provides significant benefits to the State of California and the PAGA
23 Employees and falls well-within the range of acceptable settlements under the circumstances.
24 Under the Agreement, Defendant has agreed to pay a Gross Settlement Amount of \$315,000.00,
25 which encompasses the PAGA Penalties, Attorneys' Fees and Costs, Settlement Administration
26

27 ⁴⁷ *Id.*, ¶¶ 13 & 22.

28 ⁴⁸ Aiwazian Decl., ¶¶ 13 & 22.

⁴⁹ *Id.*, ¶ 19.

⁵⁰ *Id.*, ¶¶ 11, 12, 20 & 22.

Costs, and Service Award.⁵¹ Subject to approval by the Court, the following amounts will be subtracted from the Gross Settlement Amount to yield the PAGA Penalties: (1) Attorneys' Fees and Costs to Plaintiff's Counsel in the amount of \$126,000.00 for attorneys' fees and \$9,994.02 for reimbursement of litigation costs and expenses⁵²; (2) the Settlement Administration Costs of up to \$6,000.00; and (3) Service Award of up to \$7,500.00 to Plaintiff.⁵³

The PAGA Penalties is currently estimated to be \$165,505.98, of which an estimated \$41,376.49 is to be distributed to PAGA Employees on a *pro rata* basis, based their number of Pay Periods and \$124,129.49 is to be distributed to the LWDA. There is no reason to doubt the fairness of the proposed plan of allocation of the PAGA Penalties as it fully complies with California Labor Code section 2699(i).

The Settlement is a compromise of highly disputed claims. Plaintiff and her counsel recognize the expense and length of continued proceedings necessary to litigate the matter through trial and any possible appeals.⁵⁴ Plaintiff and her counsel have also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation.⁵⁵ Plaintiff and her counsel are also aware of the burdens of proof necessary to establish liability, both generally and in response to Defendant's defenses thereto, and the difficulties in establishing Defendant's liability for, and the right to recover, penalties on behalf of Plaintiff, the State of California, and other PAGA Employees.⁵⁶ Plaintiff and her counsel have also taken into account Defendant's agreement to enter into a settlement that confers significant relief upon the PAGA Employees and the State of California.⁵⁷

Considering all of the facts in this case, Plaintiff and her counsel have determined that the Settlement represents a fair, adequate, and reasonable resolution of the PAGA claims, and

⁵¹ Settlement Agreement, §§ III.25, III.25(a), III.25(b), III.25(d), III.27, and III.29.

⁵² Settlement Agreement, § III.29.; *see also* Aiwazian Decl., ¶ 15. Although the Settlement Agreement provides that Plaintiff's Counsel can seek up to \$12,000.00 for reimbursement of litigation costs and expenses, Plaintiff's Counsel only seeks the amount of \$9,994.02. The difference between the amount sought and the maximum allocated amount available under the settlement (i.e., the difference of \$2,005.98), will be a part of the PAGA Penalties.

⁵³ Settlement Agreement, §§ III.25(a) and III.25(b); Aiwazian Decl., ¶¶ 27-28.

⁵⁴ Aiwazian Decl., ¶¶ 11, 12 & 22.

⁵⁵ *Id.*, ¶¶ 12, 18 & 22.

⁵⁶ *Id.*, ¶¶ 17 & 18.

⁵⁷ *Id.*, ¶ 22.

that it is in the best interests of the PAGA Employees and the State of California.⁵⁸

The result achieved in this matter, and the monetary recovery provided by this settlement, are well-within the range of an acceptable settlement under the circumstances, especially when compared to the settlement of PAGA claims in other cases. See, e.g., *DCH Auto Wage and Hour Cases*, Los Angeles Superior Court, Case No. JCCP4833 (May 2017) (approving the amount of \$15,000 out of \$4 million toward settlement of PAGA claims); *Garcia, supra*, 2012 WL 5364575, at *3 (approving the amount of \$10,000 out of \$3.7 million toward settlement of PAGA claims); *Schiller, supra*, 2012 WL 2117001, at *14 (approving the amount of \$10,000 out of \$518,245 toward settlement of PAGA claims); *Chu, supra*, 2011 WL 672645, at *1 (approving the amount of \$10,000 out of \$6.9 million toward settlement of PAGA claims); *Franco, supra*, 2012 WL 5941801, at *14 (approving the amount of \$10,000 out of \$2.5 million toward settlement of PAGA claims); *Nordstrom Commissions Case, supra*, at 589 (finding no abuse of discretion by the trial court in approving a settlement that allocates \$0 toward the settlement of PAGA claims that were at issue in the lawsuit). Here, the value obtained for settlement of the PAGA claims is very significant, and it will be distributed in accordance with and in fulfillment of the objectives of the PAGA statute.

E. The Experience and Views of Plaintiff’s Counsel Favor Approval of the Settlement

Plaintiff’s Counsel is highly experienced in complex representative and class action wage-and-hour litigation.⁵⁹ In the view of Plaintiff’s Counsel, the benefits conferred by the settlement are eminently fair and reasonable, and in the best interests of the State and the PAGA Employees in light of the risk, delay, and uncertainty of continued litigation and the substantial monetary benefits provided for by the Settlement.⁶⁰ Furthermore, courts have acknowledged that “the interests of plaintiff, counsel and other potentially aggrieved employees are largely aligned. All stand to gain from proving as convincingly as possible as many Labor Code violations as the evidence will sustain[.]” *Williams, supra*, 548 (citing Cal. Lab. Code §

⁵⁸ *Id.*, ¶ 29.

⁵⁹ Aiwazian Decl., ¶¶ 4-7.

⁶⁰ *Id.*, ¶ 29.

2699(g)(1)(i)).

VI. THE PROPOSED ATTORNEYS' FEES PAYMENT IS FAIR AND REASONABLE, AND SHOULD BE APPROVED

A. A Fee Award of a Percentage of the Entire Fund Is Appropriate

The Settlement provides for a Gross Settlement Amount of \$315,000.00.⁶¹ The Settlement provides for attorneys' fees in an amount of up to \$126,000.00, subject to approval and award by the Court.⁶² The requested attorneys' fees award is commensurate with: (1) the risk that Plaintiff's Counsel took in bringing and litigating this case, (2) the time, effort, and expense dedicated to this case, (3) the skill and determination that Plaintiff's Counsel has shown, (4) the results that Plaintiff's Counsel has achieved throughout the litigation, (5) the value that Plaintiff's Counsel has achieved for Plaintiff, PAGA Employees, and the State of California, and (6) the other cases that Plaintiff's Counsel has turned down in order to devote time and effort to this matter.

Plaintiff's Counsel is entitled to recover reasonable attorneys' fees and costs as a matter of right under PAGA. See Cal. Lab. Code § 2699(g)(1) ("Any employee who prevails in any [PAGA] action shall be entitled to an award of reasonable attorney's fees and costs"). Plaintiff's Counsel is also entitled to fees and costs under California Code of Civil Procedure section 1021.5, as the instant PAGA action is by definition "for the benefit" of others and secures monetary recovery for a large number of PAGA Employees, as well as the State of California. See *Estrada v. FedEx Ground Package Sys. Inc.* (2007) 154 Cal.App.4th 1, 16-17 (recognizing that recovery obtained on behalf of 209 individuals satisfies the "significant benefit," "public interest," and "large class of persons" requirements of Code of Civil Procedure section 1021.5, regardless of plaintiff's personal motivation). The settlement will also benefit the state labor agency in enforcing labor laws and educating "employers and employees about their rights and responsibilities under [the California Labor Code]." Cal. Lab. Code § 2699(i).

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⁶¹ Settlement Agreement, § III.25.

⁶² *Id.*, § III.29.

1 The propriety of calculating and awarding attorneys' fees as a percentage of a monetary
2 fund that has, by litigation, been preserved or recovered for the benefit of others, has been
3 confirmed by the California Supreme Court. *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th
4 480 at 486 & 506. While trial courts have discretion to apply either a lodestar method or
5 percentage-of-the-fund method, the California Supreme Court has taken the position that trial
6 courts also "retain the discretion to forgo a lodestar cross-check and use other means to evaluate
7 the reasonableness of a requested percentage fee" and "[t]he percentage of fund method survives
8 in California." *Id.* (internal quotes omitted); see also *Wershba, supra*, 91 Cal.App. 4th at 253.

9 Courts award fees to serve as an economic incentive for lawyers to undertake litigation,
10 and thereby enhance and facilitate access to the judicial system for adjudication of meritorious
11 claims, and to deter wrongdoing. This is especially true in situations where multiple similar
12 alleged wrongs would not be economically feasible to pursue individually, such as here. See A.
13 Conte, *Attorney Fee Awards* (2d ed. 1993) 104, at 6.

14 Trial courts have "wide latitude" in assessing the value of attorneys' fees and their
15 decisions will "not be disturbed on appeal absent a manifest abuse of discretion." *Lealao v.*
16 *Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 41; see also *Laffitte, supra*, 1 Cal.5th 480 at 506
17 (holding that "trial court did not abuse its discretion in using [the percentage of fund method],
18 in part to approve the fee request"). Indeed, it is long settled that the "experienced trial judge is
19 the best judge of the value of professional services rendered in his court." *Ketchum v. Moses*
20 (2001) 24 Cal.4th 1122, 1132.

21 The percentage method is particularly appropriate where a monetary settlement has been
22 recovered and "the benefit [recovered can be] easily quantified." *In re Bluetooth Headset Prods.*
23 *Liab. Litig.* (9th Cir. 2011) 654 F.3d 935, 942. Where the amount of a settlement is a "certain
24 easily calculable sum of money," California courts may calculate attorneys' fees as a reasonable
25 percentage of the settlement created. Weil and Brown, California Practice Guide, *Civil*
26 *Procedure Before Trial*, Chapter 14, section 14:145; *Dunk, supra*, 48 Cal. App. 4th at 1808.

27 The percentage fee method is preferred in representative actions because "it better
28 approximates the workings of the marketplace than the lodestar approach." *Lealao, supra*, 82

Cal.App.4th at 49. California law provides that the award for attorneys' fees should be equivalent to fees freely negotiated in the legal marketplace and paid in comparable litigation based on the result achieved and risk incurred. See *Lealao, supra*, 82 Cal.App.4th at 47-50; *Laffitte, supra*, 1 Cal.5th 480 at 503. In cases where the settlement agreement provides that the defendant will pay the plaintiffs' attorneys a percentage of the fund created by the settlement, use of that percentage method is appropriate. *Lealao, supra*, 82 Cal.App.4th at 32. Fee awards that are too small will "chill the private enforcement essential to the vindication of many legal rights and obstruct the representative actions that often relieve the courts of the need to separately adjudicate numerous claims." *Id.* at 53. Therefore, fees in representative actions should approximate the probable terms of a contingent fee contract negotiated by a sophisticated attorney and client in comparable litigation. *Id.* at 48. "The ultimate goal . . . is the award of a 'reasonable' fee to compensate counsel for their efforts, irrespective of the method of calculation." *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557-58 (quoting *Apple Computer, Inc. v. Superior Court, supra*, 126 Cal.App.4th at 1270).

Plaintiff's Counsel's application for attorneys' fees in light of the facts and circumstances surrounding the lawsuit are well-within the range of reasonableness. Historically, courts have awarded fees as high as fifty percent (50%) of the settlement in complex actions, depending on the circumstances of the case. See *In re Ampicillin Antitrust Litig.* (D.D.C. 1981) 526 F.Supp. 494 (awarding attorneys' fees in the amount of 45% of the \$7.3 million total settlement amount); *Beech Cinema, Inc. v. Twentieth-Century Fox Film Corp.* (S.D.N.Y. 1979) 480 F.Supp. 1195 (awarding approximately 53% of the settlement as attorneys' fees). California courts routinely approve attorneys' fees awards "average[ing] around one-third of the recovery." *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (lower court found the range of contingency fees in marketplace to be 20 to 40 percent and determined such a percentage fee was appropriate); see also, e.g., *Resendez v. Bridgestone Retail Operations, LLC*, Los Angeles County Superior Court, Case No. BC596892 (June 2016) (citing *Chavez, supra*, 162 Cal.App.4th at 66, n.11) (approving a fee award of one-third of the settlement amount of \$950,000, in a PAGA action, because it was "reasonable and consistent with fee awards in class

1 action cases”).

2 Plaintiff’s Counsel has litigated the case since it was commenced, with the very real
3 possibility of an unsuccessful outcome and no fee recovery of any kind.⁶³ Plaintiff’s Counsel
4 conducted formal and informal discovery, including propounding written discovery requests on
5 Defendant and noticing the depositions of Defendant’s person most knowledgeable witnesses,
6 and exchanged a large volume of data and documents with Defendants’ counsel.⁶⁴ The data and
7 documents reviewed and analyzed by Plaintiff’s Counsel included, and was not limited to, the
8 employment records of Plaintiff, sampling of time and pay data, Defendant’s employee
9 handbook and Employee Acknowledgment Form, agreements, checklists (including, and not
10 limited to New Hire Orientation Check Off List), internal memoranda, acknowledgments, and
11 Defendant’s operations and employment policies (including, and not limited to rest and meal
12 periods policy, timekeeping policy, off-duty personal appearance, Bert’s dress-code policy,
13 bonus programs, overtime policy, and overtime on bonus pay policy), practices, and procedures
14 (including, and not limited to the E-Time System for punching in and out), among other
15 documents.⁶⁵ Counsel for the Parties undertook significant investigation, and also invested time
16 reviewing and analyzing relevant documents and data to evaluate Plaintiff’s claims, including,
17 and not limited to, calculating the potential monetary recovery under PAGA.⁶⁶ Other work
18 performed by Plaintiff’s Counsel included, but was not limited to: meeting and conferring with
19 Defendant’s counsel regarding the pleadings, discovery, mediation and settlement, among other
20 issues; participating in case strategy and analysis; drafting, reviewing, and revising mediation
21 brief; and preparing for and attending mediation, and settlement negotiations.⁶⁷

22 In the present matter, Plaintiff’s Counsel has borne all of the risks and costs of litigation
23 and will not receive any compensation until recovery is obtained.⁶⁸ Plaintiff’s Counsel is
24 experienced in complex wage-and-hour litigation and used that experience to obtain a great
25

26 ⁶³ Aiwazian Decl., ¶ 27.

27 ⁶⁴ *Id.*, ¶ 13.

28 ⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Id.*, ¶ 27.

1 result for Plaintiff, PAGA Employees, and the State of California.⁶⁹ Considering the amount of
2 fees requested, work performed, risks incurred, results obtained, and experience of Plaintiff's
3 Counsel in handling similar matters, Plaintiff maintains that the requested attorneys' fees are
4 reasonable and should be awarded.

5 **B. The Fee Award Requested by Plaintiff's Counsel Is Reasonable Based on the**
6 **Factors Considered in Determination of Fee Awards**

7 The factors which courts consider in determining whether fee awards are reasonable, all
8 of which support the fee award requested by Plaintiff's Counsel, are: (1) the time and labor
9 required; (2) the novelty and difficulty of the questions involved; (3) the skill requisite to
10 perform the legal services properly; (4) the preclusion of other employment by the attorney due
11 to the acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent;
12 (7) the time limitation imposed by the client or the circumstances; (8) the amount involved and
13 results obtained; (9) the experience, reputation, and ability of the attorney; (10) the undesirability
14 of the case; (11) the nature and length of the professional relationship with the client; and (12)
15 awards in similar cases. *Camden I Condominium Association, Inc. v. Dunkel* (11th Cir. 1991)
16 946 F. 2d 768, 772. Some of the most relevant factors to this Court's fee determination will be
17 addressed below.

18 It should be highlighted that the percentage award sought is commensurate with the time,
19 effort, and expense dedicated to the case, the contingent nature of Plaintiff's Counsel's
20 representation and the risks taken in commencing the case, the skill and determination required,
21 the results that Plaintiff's Counsel has achieved, and the value of the settlement that Plaintiff's
22 Counsel has obtained on behalf of Plaintiff, PAGA Employees, and the State of California. For
23 the reasons discussed herein, an award of attorneys' fees in the amount of forty percent (40%)
24 of the Gross Settlement Amount is reasonable.

25 ***1. Time & Labor***

26 Plaintiff's Counsel has used its experience and skills in litigating complex wage-and-
27 hour actions to bring this matter to a successful conclusion. Prior to commencing the case,

28 ⁶⁹ Aiwazian Decl., ¶¶ 4-7.

Plaintiff's Counsel conducted a significant amount of investigation into the factual and legal issues, Defendant's business, and its operations and employment policies, practices, and procedures.⁷⁰ During the litigation of the matter, Plaintiff's Counsel interviewed and obtained information from Plaintiff and PAGA Employees, conducted significant formal and informal discovery, noticed the depositions of Defendant's person most knowledgeable witnesses, conducted legal research, reviewed and analyzed a large volume of documents and data, prepared for and attended hearings and mediation, evaluated the PAGA claims, and calculated the potential monetary recovery under PAGA.⁷¹ Plaintiff's Counsel also met and conferred with Defendant's counsel over issues relating to the pleadings, discovery, mediation, and settlement.⁷² Plaintiff's Counsel performed other work including, *inter alia*, case strategy and analysis; drafting, reviewing, and revising pleadings; and engaging in extensive settlement negotiations.⁷³

Plaintiff's Counsel has dedicated staffing and monetary resources necessary to prosecute this matter diligently and with maximum efficiency and has fully and actively participated in the litigation process. The Task and Time Chart, which is attached as "EXHIBIT 2" to the accompanying declaration of Edwin Aiwarzian, sets forth in detail the hours that Plaintiff's Counsel has spent performing tasks in this matter. Plaintiff's Counsel has spent **224.60 hours** to obtain a recovery on behalf of Plaintiff, PAGA Employees, and the State of California. These hours were required to bring this case to its successful conclusion.

In light of the value of time expended and the carrying of costs involved in this litigation, the requested attorneys' fees award is fair, adequate, and reasonable.

2. The Skill Required to Perform Legal Services Properly

The skill required to properly litigate this case is evident not only in the results achieved, but in the steps necessary to reach the same. Defendant retained highly respected counsel to represent its defenses. Defendant and its counsel felt very strongly about Defendant's ability to

⁷⁰ Aiwarzian Decl., ¶ 13.

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ *Ibid.*

prevail on the merits and avoid representative adjudication of the PAGA claims. Plaintiff and Plaintiff's Counsel believe that the PAGA claims have merit and that Plaintiff will prevail at trial. Plaintiff's Counsel undertook extensive investigation, analysis, and research prior to filing the lawsuit and during the litigation. Plaintiff's Counsel took steps to prepare the case for trial and had every intention of taking the case to trial if Defendant did not offer an appropriate settlement.

Plaintiff's Counsel's effort and skill were used to, among other things, investigate the allegations and gather facts, research the legal issues, analyze data and information obtained from Defendant, Plaintiff, and through other sources, evaluate the PAGA claims, and negotiate the settlement.⁷⁴ Despite all of the obstacles that had to be overcome, Plaintiff's Counsel used its extensive experience and skill in the handling of complex wage-and-hour matters to advocate for and obtain PAGA Employees and the State of California a recovery now, with maximum efficiency, as opposed to the possibility of recovery in the future, after significant expense and time.⁷⁵

3. *The Value of the Settlement*

The settlement represents an excellent resolution of this case, given the uncertainty and risks of further litigation.⁷⁶ Had the case not settled, Defendant would have vigorously challenged manageability and liability, and sought a reduction in the amount assessed as penalties. Defendant, however, faced risks too, including and not limited to, the risk of having the Court assess penalties. Additionally, preparing the case for trial would have been extraordinarily expensive for the Parties.

At this stage, the settlement is preferred over continued litigation because such resolution saves time and money that would otherwise go to litigation. The risks and expenses of further litigation outweighed any benefit that might have been gained otherwise. The settlement provides an immediate recovery, as opposed to an uncertain result in the future after prolonged litigation involving expert discovery, trial preparation, and appellate review of those

⁷⁴ Aiwasian Decl., ¶¶ 4-7 & 13.

⁷⁵ *Id.*, ¶¶ 17-22.

⁷⁶ *Id.*, ¶¶ 17, 18, 22, & 29.

proceedings. The settlement offers present and considerable monetary relief to the Plaintiff, the PAGA Employees, and State of California while avoiding additional expense, risk, and delay in obtaining possible further recovery.

4. *Whether the Fee Is Fixed or Contingent*

The representation provided by Plaintiff's Counsel has been wholly contingent and Plaintiff's Counsel took on this matter without knowing whether any recovery would be obtained. Plaintiff's Counsel has invested **224.60 hours** of time to obtain relief on behalf of Plaintiff, PAGA Employees, and the State of California. Plaintiff's Counsel is also requesting reimbursement of litigation costs and expenses in the amount of \$9,994.02.⁷⁷

In this matter, Plaintiff's Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.⁷⁸ If Plaintiff's Counsel had not been successful, the time that has been devoted to litigating the case would have been for naught and would not have produced any fee or any reimbursement of costs or expenses. Plaintiff's Counsel is well-experienced in complex wage-and-hour litigation and used that experience to obtain a great result for Plaintiff, PAGA Employees, and State of California.⁷⁹ The skill and determination that Plaintiff's Counsel has shown throughout the case justify the requested Attorneys' Fees and Costs. Considering the amounts requested, work performed, and risks incurred, the requested fees and costs are reasonable and should be awarded.

5. *The Amount Involved and the Results Achieved*

The results achieved, in light of the difficulties inherent in similar cases and the specific difficulties faced in this case, are considerable. Here, the results achieved, and the recovery obtained on behalf of Plaintiff, PAGA Employees, and the State of California represent a fair and reasonable resolution of this matter. Plaintiff's Counsel's efforts have resulted in a settlement that provides for a Gross Settlement Amount of \$315,000.00, and it is currently estimated that the PAGA Penalties available for distribution to PAGA Employees and the State

⁷⁷ See Settlement Agreement, § III.29; and Exh. 3.

⁷⁸ Aiwazian Decl., ¶ 27.

⁷⁹ *Id.*, ¶¶ 4-7.

of California, as set forth in Part III.C *infra*, is approximately \$165,505.98.⁸⁰

6. *The Reputation and Ability of the Attorneys*

Plaintiff's Counsel is a recognized class action and complex litigation law firm, and its attorneys employed their knowledge, skill, and experience to bring the case to a successful conclusion. Plaintiff's Counsel has years of wage-and-hour class action and complex litigation experience, has recovered millions of dollars on behalf of thousands of individuals in California, and has successfully handled numerous significant wage-and-hour class action and representative action cases.⁸¹

C. The Lodestar Methodology Also Justifies Approval of the Requested Fees, Because Plaintiff's Counsel Has Performed Work That Is of Significant Value Based on Reasonable Hours and Prevailing Hourly Rates of Compensation

While the percentage-of-the-benefit approach is endorsed as the better approximation of the workings of the marketplace than the lodestar approach, courts may also use the lodestar method to "cross-check" the results of the other. See *Laffitte, supra*, 1 Cal.5th at 505 (explaining that "[a] lodestar cross-check is simply a quantitative method for bringing a measure of the time spent by counsel into the trial court's reasonableness determination"); see also, e.g., *Vizcaino*, 290 F.3d at 1050 ("[W]hile the primary basis of the fee award remains the percentage method, the lodestar may provide a useful perspective on the reasonableness of a given percentage award."). Importantly, "the lodestar calculation . . . does not override the trial court's primary determination of the fee as a percentage" and "does not impose an absolute maximum or minimum on the potential fee award." *Laffitte, supra*, 1 Cal.5th at 505.

The lodestar is calculated based on reasonable hours at reasonable prevailing hourly rates for the attorneys. *Ketchum, supra*, 24 Cal.4th at 1131-32. Under California law, counsel is entitled to compensation for every hour reasonably spent on the matter. *Id.* at 1133.

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⁸⁰ Settlement Agreement, §§ III.25, III.25(a), III.25(b), III.25(d), III.27, and III.29.

⁸¹ Aiwazian Decl., ¶¶ 4-7.

1 ***1. Plaintiff's Counsel Performed Work for a Reasonable Number of Hours***

2 The reasonableness of hours is assessed by “the entire course of the litigation, including
3 pretrial matters, settlement negotiations, discovery, litigation tactics, and the trial itself[.]” *Vo*
4 *v. Las Virgenes Municipal Water Dist.* (2000) 79 Cal.App.4th 440, 447.

5 As discussed above, this case was highly contested and required a significant amount of
6 time and labor. Defendant made it clear very early on that it disputed all of Plaintiff's allegations
7 and disputed that representative adjudication was appropriate. Defendant also argued, *inter alia*,
8 that it had facially-compliant employment policies and practices throughout the time period at
9 issue.⁸² Defendant raised affirmative defenses and denied liability, and the pursuit of this case
10 involved gathering and analyzing a large volume of data and documents from Defendant as well
11 as other sources.⁸³ The handling of this litigation involved a great amount of effort, and also
12 required and involved the exercise of a high level of skill, which Plaintiff's Counsel has, as a
13 result of its extensive experience in complex wage-and-hour litigation. Long and difficult
14 battles would have followed as the case moved toward trial, including taking and defending
15 declarant and expert depositions, depositions of person most knowledgeable designees,
16 conducting additional formal discovery, and engaging in extensive motion practice. As
17 Plaintiff's Counsel geared up for these battles, Plaintiff's Counsel undertook intense preparation
18 in an attempt to resolve the entire matter through settlement negotiations.

19 Plaintiff's Counsel had to bring together a volume of data and documents that were
20 produced by Defendant and obtained from Plaintiff, PAGA Employees, and through other
21 sources. Plaintiff's Counsel conducted extensive review and analysis of these documents and
22 data to strategize and evaluate the case and engage in settlement discussions.

23 As set forth above in Part VI.B.1 *supra*, attached to the declaration of Edwin Aiwazian
24 is the Task and Time Chart that sets forth in detail the numerous tasks that Plaintiff's Counsel
25 performed in this matter, and the time required for completing those tasks.⁸⁴ The chart
26 demonstrates that Plaintiff's Counsel has spent a total of **224.60 hours** performing tasks in this

27 ⁸² Aiwazian Decl., ¶ 19.

28 ⁸³ *Id.*, ¶¶ 13 & 19.

⁸⁴ *Id.*, Exh. 2.

1 matter.⁸⁵ In light of the facts and circumstances of this case, as well as the results Plaintiff's
2 Counsel has achieved on behalf of Plaintiff, PAGA Employees, and the State of California,
3 Plaintiff's Counsel has spent a reasonable number of hours on this matter.

4 **2. The Fees Requested Represent a Reasonable Hourly Rate of Compensation**
5 **in Light of Plaintiff's Counsel's Efforts and Experience**

6 Both California and federal courts recognize that attorneys should be compensated for
7 providing representation on a contingency basis and for taking on the risks associated with said
8 representation, as well as being provided with financial incentives to enforce important rights
9 and protections like those at issue in this matter. See *Ketchum*, *supra*, 24 Cal.4th at 1132-33.
10 In awarding attorneys' fees, the aim is to mirror "the established practice in the private legal
11 market of rewarding attorneys for taking the risk of nonpayment by paying them a premium
12 over their normal hourly rates for winning contingency cases." *Id.*

13 Plaintiff's Counsel has been actively involved in the prosecution of this case, prior to the
14 commencement of the case and all the way up to approval of the settlement, and its dedication
15 to the representation of Plaintiff, PAGA Employees, and the State of California has precluded
16 other employment. Here, Plaintiff's Counsel bore the risk that, despite all of its efforts and skills
17 employed, there may be no recovery. Ultimately, Plaintiff's Counsel was successful in reaching
18 a settlement of \$315,000.00.

19 As set forth in the Declaration of Edwin Aiwazian, the professional backgrounds and
20 experience of Plaintiff's Counsel support a reasonable hourly rate of compensation of at least
21 \$575 per hour for services provided by Plaintiff's Counsel. Lawyers for Justice, PC has been
22 awarded attorneys' fees, compensating the firm at the rate of at least \$575 for legal service
23 performed, by courts of this state.⁸⁶ While the circumstance of every case is unique, the fact
24 remains that the work performed and efforts undertaken by Plaintiff's Counsel in this matter
25 justify the requested attorneys' fees award.

26 ///

27
28 ⁸⁵ Aiwazian Decl., Exh. 2.

⁸⁶ *Id.*, ¶ 26.

Applying the rate of \$575 per hour to 224.60 hours would place a reasonable value of \$129,145, based on lodestar, for the work performed by Plaintiff's Counsel. However, Plaintiff's Counsel only seeks attorneys' fees in the amount of \$126,000.00, which is forty percent (40%) of the total recovery, as provided for by the Settlement Agreement.

It also bears noting that a court may apply a multiplier in consideration for risk, efficiency, and/or obtaining a substantial result, to enhance the lodestar for purpose of cross-check. See *Ketchum*, 24 Cal.4th at 1133-34 (holding that a risk multiplier may be applied to compensate contingency fee attorneys at a fair market rate). Such an enhancement "mirrors the established practice in the private legal market of rewarding attorneys for taking the risk of nonpayment by paying them a premium over their normal hourly rates for winning contingency cases." *Vizcaino*, 290 F.3d at 1051; accord *Ketchum*, *supra*, 24 Cal.4th 1122, 1132-34. A risk multiplier also serves to bring the financial incentives for enforcing important rights "into line with incentives [attorneys] have to undertake claims for which they are paid on a fee-for-services basis." *Ketchum*, 24 Cal.4th at 1132. Courts have also approved fee awards with multipliers of 2 and even higher. See, e.g., *City of Oakland v. Oakland Raiders* (1988) 203 Cal.App.3d 78 (affirming a 2.34 multiplier without remand); *Wershba*, *supra*, 91 Cal.App.4th at 255 ("Multipliers can range from 2 to 4 or even higher."); *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a 2.52 multiplier on a lodestar cross-check); *Chavez*, *supra*, 162 Cal.App.4th at 66 (applying a 2.5 multiplier in a consumer class action).

The lodestar method as a cross-check to the percentage figure sought strongly supports the reasonableness of the requested attorneys' fees. Accordingly, Plaintiff respectfully requests that the Court grant final approval of, and award, attorneys' fees in the amount of \$126,000.00 to Plaintiff's Counsel.

VII. COSTS TO BE REIMBURSED TO PLAINTIFF'S COUNSEL ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED

The Settlement provides for reimbursement of litigation costs and expenses of up to \$12,000.00.⁸⁷ As set forth in the declaration of Edwin Aiwazian, Plaintiff's Counsel has

⁸⁷ Settlement Agreement, § III.29.

incurred a total of \$9,994.02 in litigation costs and expenses.⁸⁸ This amount was reasonable and necessary in the prosecution of this matter, and is less than the maximum amount allocated under the Settlement Agreement.⁸⁹ The cost savings of \$2,005.98 will be part of the PAGA Penalties.⁹⁰ Accordingly, Plaintiff's Counsel requests that the Court award reimbursement of litigation costs and expenses in the amount of \$9,994.02 to Plaintiff's Counsel.

VIII. THE PROPOSED COVER LETTER TO THE PAGA EMPLOYEES SHOULD BE APPROVED

Although PAGA does not require notice to unnamed aggrieved employees of a settlement, the Parties prepared, and now present for the Court's consideration and approval, the [Proposed] Cover Letter ("Cover Letter") for transmission to PAGA Employees along with their Individual Settlement Payments, substantially in the form attached as "EXHIBIT A" to the [Proposed] Order and Judgment. The Cover Letter informs the PAGA Employees about the case and the Settlement. Accordingly, Plaintiff respectfully requests that the Court approve the Cover Letter for transmission to the PAGA Employees at the time of disbursing their Individual Settlement Payments.

IX. THE PROPOSED SETTLEMENT ADMINISTRATION COSTS ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED

As set forth in the Settlement Agreement, the Parties have agreed to retain, subject to approval by the Court, Phoenix Settlement Administrators to handle the administration of the Settlement.⁹¹ The fees and expenses of the Settlement Administrator are estimated not to exceed \$6,000.00.⁹² These costs include, but are not limited to, expenses for preparing, printing, and mailing the Cover Letter and Individual Settlement Payments (i.e., Payment Packet) to the PAGA Employees; re-mailing the returned Payment Packets to any new addresses obtained, and handling inquiries from PAGA Employees regarding the Settlement, among other things.⁹³

⁸⁸ Aiwazian Decl., ¶ 27.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

⁹¹ Settlement Agreement, § I.16.

⁹² *Id.*, § III.25(b).

⁹³ *Id.*, § VI.44.

Accordingly, the Court should grant approval of the Settlement Administration Costs in the amount of up to \$6,000.00 to Phoenix, a necessary third-party for handling the settlement process.

X. THE PROPOSED SERVICE AWARD IS FAIR, ADEQUATE, AND REASONABLE, AND SHOULD BE APPROVED

The Settlement provides for a Service Award to be paid to Plaintiff Lauren Brady in the amount of \$7,500.00.⁹⁴ The purpose of such an award is to incentivize aggrieved employees to step into the shoes of the state labor agency and undertake the responsibilities associated with initiating a lawsuit and serving in a representative capacity. See *Bell v. Farmers Ins. Exch.* (2004) 115 Cal.App.4th 715, 726 (“service payments” compensate named plaintiff “for [her] efforts in bringing the action”); *Clark v. Am. Residential Servs., LLC* (2009) 175 Cal.App.4th 785, 804 (“an incentive award is appropriate ‘if it is necessary to induce an individual to participate in the suit’”); accord *Ingram v. The Coca-Cola Co.* (N.D. Ga. 2001) 200 F.R.D. 685, 694 (internal quotation marks omitted) (“Courts routinely approve incentive awards to compensate named plaintiffs for the services they provided and the risks they incurred during the course of the [...] litigation.”); see also, e.g., *Resendez, supra*, Los Angeles County Superior Court, Case No. BC59689 (approving \$10,000 enhancement award in a PAGA action).

Here, Plaintiff contributed considerable time and effort to the litigation of this case in order to enforce the California Labor Code on behalf of the State of California and for the benefit of other PAGA Employees. Plaintiff gathered and produced relevant documents and information, provided the facts and evidence necessary to attempt to prove the allegations, and discussed her employment with her counsel.⁹⁵ Plaintiff was available whenever her counsel needed her and tried to obtain documents and information that would aid in the litigation of the PAGA claims and pursuit of recovery on behalf of the State of California and PAGA Employees.⁹⁶ Additionally, as a part of the Settlement, Plaintiff has agreed to a broader release of claims than the release of claims that applies to PAGA Employees.

⁹⁴ Settlement Agreement, § III.25(a).

⁹⁵ Aiwazian Decl., ¶ 28; Declaration of Lauren Brady (“Brady Decl.”), ¶¶ 3-4.

⁹⁶ Aiwazian Decl., ¶ 28; Brady Decl., ¶¶ 3, 4 & 6.

Accordingly, it is reasonable and just for Plaintiff Lauren Brady to receive a Service Award in the amount of \$7,500.00, in addition to the Individual Settlement Payment she will receive as a PAGA Employee.

XI. CONCLUSION

The Settlement is fair, adequate, and reasonable, as it represents a reasoned compromise of disputed claims that has been reached through arm's-length negotiations, in light of the risks, complexity, and expense of further litigation. Plaintiff respectfully requests that the Court approve the Settlement, including the plan of allocation and distribution of the Gross Settlement Amount for the LWDA Payment to the LWDA, Individual Settlement Payments to PAGA Employees, Attorneys' Fees and Costs to Plaintiff's Counsel, Settlement Administration Costs to the Settlement Administrator, and Service Award to Plaintiff.

Dated: March 11, 2021

LAWYERS for JUSTICE, PC

By:


Edwin Aiwanian
Attorney for Plaintiff



Make a Reservation

LAUREN BRADY vs SEIDNER ENTERPRISES, LLC DBA BERT'S MEGA MALL, A CALIFORNIA LIMITED LIABILITY COMPANY

Case Number: 20PSCV00276 Case Type: Civil Unlimited Category: Other Employment Complaint Case
Date Filed: 2020-04-13 Location: Pomona Courthouse South - Department J

Reservation

Case Name:

LAUREN BRADY vs SEIDNER ENTERPRISES, LLC DBA
BERT'S MEGA MALL, A CALIFORNIA LIMITED LIABILITY
COMPANY

Case Number:

20PSCV00276

Type:

Motion re: (Motion For Approval Of Private Attorneys
General Act (Cal. Labor Code § 2698, Et Seq.) Settlement
Agreement And Award Of Attorneys' Fees And Costs,
Service Award, And Settlement Administration Costs)

Status:

RESERVED

Filing Party:

Lauren Brady (Plaintiff)

Location:

Pomona Courthouse South - Department J

Date/Time:

04/05/2021 10:00 AM

Number of Motions:

1

Reservation ID:

967312543962305742508266

Confirmation Code:

CR-QYYRTLJVEYABCFFWG

Fees

Description	Fee	Qty	Amount
Motion re: (name extension)	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
TOTAL			\$61.65

Payment

Amount:

\$61.65

Type:

MasterCard

Account Number:

XXXX1861

Authorization:

31728J

[Print Receipt](#)

[+ Reserve Another Hearing](#)

[Chat](#)