

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (SBN 068687)

norm@bamlawca.com

Kyle R. Nordrehaug (SBN 205975)

kyle@bamlawca.com

Aparajit Bhowmik (SBN 248066)

aj@bamlawca.com

Nicholas J. De Blouw (SBN 280922)

nick@bamlawca.com

Ricardo R. Ehmann (SBN 320117)

rico@bamlawca.com

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858) 551-1223/Facsimile: (858) 551-1232

COHELAN KHOURY & SINGER

Isam C. Khoury (SBN 58759)

ikhoury@ckslaw.com

Michael D. Singer (SBN 115301)

msinger@ckslaw.com

Rosemary C. Khoury (SBN 331307)

rkhoury@ckslaw.com

605 C Street, Suite 200

San Diego, CA 92101

Telephone: (619) 595-3001/Facsimile: (619) 595-3000

[Additional counsel listed on following page]

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

ISHAN BASU-KESSELMAN and TAI
TRAN, on behalf of the State of California,
as private attorneys general,

Plaintiffs,

v.

GARUDA LABS, INC. d/b/a
INSTAWORK; ADVANTAGE
WORKFORCE SERVICES, LLC; and
DOES 1 through 50, inclusive,

Defendants.

Case No. CGC-20-586542

REPRESENTATIVE ACTION

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR APPROVAL OF PRIVATE
ATTORNEYS GENERAL ACT (“PAGA”)
SETTLEMENT**

Date: November 30, 2023

Time: 9:30 a.m.

Judge: Richard B. Ulmer, Jr.

Dept.: 302

Complaint filed: July 9, 2020

Trial date: Not set

LEBE LAW, APLC
Jonathan M. Lebe (SBN 284605)
jon@lebelaw.com
Zachary Gershman (SBN 328004)
zachary@lebelaw.com
777 S. Alameda Street, Second Floor
Los Angeles, CA 90021
Telephone: (213) 444-1973

Attorneys for Plaintiffs

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I. INTRODUCTION

Plaintiffs Ishan Basu-Kesselman and Tai Tran (“Plaintiffs”) seek approval of a non-reversionary Private Attorneys General Act of 2004 (“PAGA”) settlement of Three Million Five Hundred Fifty Thousand Dollars (\$3,550,000). The proposed Settlement will benefit the Labor and Workforce Development Agency (“LWDA”) and approximately 34,709 individuals (“PAGA Settlement Group Members” or “PAGA Members”) who performed work in California using the platform developed and maintained by Defendant Garuda Labs, Inc. d/b/a Instawork (“Instawork”) while classified as either an independent contractor of Instawork and/or as an employee of Defendant Advantage Workforce Services, LLC (“AWS”) (collectively, “Defendants”) at any time during the PAGA Period from March 31, 2019 through October 31, 2022 (“PAGA Period”). Declaration of Isam C. Khoury (“Khoury Decl.”), ¶ 9, Exhibit 1 - Private Attorneys General Act Settlement Agreement (“Settlement Agreement” or “SA”). Plaintiffs allege Instawork misclassified them and other PAGA Members as independent contractors and, as a result, failed to afford them certain wages, reimbursements, and compliant breaks to which they were entitled, which also caused their wage statements and final wages to be inaccurate. Further, Plaintiffs allege AWS failed to properly compensate its employees and committed other Labor Code violations. Khoury Decl., ¶ 10. Plaintiffs request the Court approve the Settlement because the civil penalties secured by the Settlement are significant and fulfill PAGA’s underlying purpose to benefit the public and deter Labor Code noncompliance. Plaintiffs’ requests for attorneys’ fees of \$1,183,333.33, reimbursed costs of \$56,749.82, enhancement awards to Plaintiffs in the amount of \$10,000.00 each (for a total of \$20,000.00), and contend settlement administration costs to the proposed settlement administrator, Phoenix Class Action Administration Solutions (“Phoenix”), of \$73,500 are also reasonable and should be approved by the Court. Accordingly, Plaintiffs respectfully request that the Court enter an order and judgment granting approval of the Settlement pursuant to Labor Code section 2699(l)(2). Khoury Decl., ¶ 11.

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II. THE PARTIES AND AGGRIEVED EMPLOYEES

Below is a summary of Plaintiffs' allegations relating to Defendants:

A. Defendants

Defendants connect businesses with temporary workers using Instawork's online and mobile application (the "Instawork App"). Defendants' workers work for the business for a set shift and record hours worked using the Instawork App. Defendants receive information from the business customers regarding work opportunities which are then made available for individuals to source on the Instawork App. The business customer determines the schedule and the hourly rate to be paid for those work opportunities via the Instawork App. Individuals can log into the Instawork App to review the work opportunities and determine whether or not to accept them. Khoury Decl., ¶ 12, Exhibit 2 – Basu-Kesselman/Tran First Amended Complaint ("Amended Complaint"), ¶¶ 37-39. Defendants earn money, in part, by connecting their business customers with workers and receiving a markup on the hourly rate the business has set for the worker for each shift. Khoury Decl., ¶ 13, Amended Complaint, ¶ 42. Defendants then pay their workers. Khoury Decl., ¶ 13; Amended Complaint, ¶¶ 47-48.

B. Plaintiffs

Plaintiff Ishan Basu-Kesselman worked through Instawork as an independent contractor performing shifts working manual labor from approximately August of 2018 to February of 2020 and also worked for AWS from approximately January of 2020 to February of 2020 as an employee. Plaintiff Basu-Kesselman accepted work shifts on the Instawork App. These shifts Plaintiff Basu-Kesselman accepted via the Instawork application included but were not limited to, positions working as a prep cook, line cook, event server and waiter at various places, such as golf courses, hotels, restaurants, sporting venues, beach events, and award ceremonies including the Emmy's. Khoury Decl., ¶ 14; Amended Complaint, ¶ 11; Declaration of Ishan Basu-Kesselman ("Basu-Kesselman Decl."), ¶ 5. Plaintiff Tai Tran worked through Instawork as an independent contractor performing shifts working manual labor in approximately December 2019 and worked for AWS as an employee during the same time period. Khoury Decl., ¶ 15; Amended Complaint, ¶ 12; Declaration of Tai Tran ("Tran Decl."), ¶ 5.

C. PAGA Members

PAGA Settlement Group Members, or PAGA Members, are individuals who performed work in California using Instawork’s platform while classified as either an independent contractor of Instawork and/or as an employee of AWS at any time during the PAGA Period. SA, ¶ I (23-24).

III. PROCEDURAL HISTORY, INVESTIGATION, AND DISCOVERY

On or about March 31, 2020, PAGA Counsel¹ on behalf of Plaintiff Tran sent correspondence to the LWDA alleging that Instawork, related entities and their managers, agents, officers, and directors violated the California Labor Code and seeks penalties premised on Labor Code sections 201, 202, 203, 204, 226, 226.7, 226.8, 246, 256, 510, 512, 558, 1194, 1197, 1197.1, 2698, and 2802, as well as applicable Industrial Welfare Commission Wage Orders. Thereafter, on or about July 8, 2020, PAGA Counsel on behalf of Plaintiff Tran sent an amended correspondence to the LWDA alleging the same Labor Code violations as his March 31, 2020 letter and in addition added claims for violation of California Labor Code section 221 and sought penalties premised on Labor Code sections 221, 225.5 and 2698. SA, ¶ II (1); Khoury Decl., ¶ 16, Exhibit 3 – Tran PAGA Notices.

On or about May 7, 2020, PAGA Counsel on behalf of Plaintiff Basu-Kesselman sent correspondence to the LWDA alleging that Instawork violated California Labor Code sections 201, 202, 203, 204, *et seq.*, 210, 226(a), 226.7, 226.8, 351, 510, 512, 558, 1194, 1197, 1197.1, 1198, and 2802, California Code of Regulations, Title 8, Section 11040, Subdivisions 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14), and applicable Industrial Welfare Commission Wage Order(s) and California Business & Professions Code sections 17200, *et seq.* SA, ¶ II (2); Khoury Decl., ¶ 17, Exhibit 4 – Basu-Kesselman PAGA Notice.

At no time did the LWDA notify either Plaintiff of an intention to investigate the allegations contained in any of the PAGA Notices and Instawork did not serve notice it intended to cure any alleged defect pursuant to the PAGA (Labor Code § 2699.3). Khoury Decl., ¶ 18.

¹ “PAGA Counsel” means the law firms of Lebe Law, APLC; Cohelan Khoury & Singer; and Blumenthal Nordrehaug Bhowmik De Blouw LLP. SA, ¶ I (18).

On July 9, 2020, Plaintiff Tran filed a Complaint for Recovery of Civil Penalties Pursuant to PAGA in the Tran PAGA Action, alleging eleven causes of action against Instawork as identified in the Tran PAGA Notices. SA, ¶ II (3). On September 3, 2020, Plaintiff Basu-Kesselman filed a Representative Action Complaint in the *Basu-Kesselman* PAGA Action, alleging a single cause of action against Instawork for recovery of civil penalties under the PAGA for violation of Labor Code sections identified in his PAGA Notice. SA, ¶ II (4). On November 9, 2020, Plaintiff Tran filed a First Amended Complaint for Recovery of Civil Penalties Pursuant to the PAGA in the *Tran* PAGA Action, alleging the same eleven causes of action against Instawork as in his original Complaint. SA, ¶ II (5).

Thereafter, the Parties engaged in both litigation and mediations. Khoury Decl., ¶ 19. In the *Tran* PAGA Action: Instawork prepared, and Plaintiff reviewed, a proposed demurrer, after which Plaintiff Tran filed a First Amended Complaint; Plaintiff Tran propounded one set of form interrogatories, 17 requests for production, and 3 special interrogatories; and the Parties engaged in two full-day mediations which were unsuccessful. Thereafter, Instawork filed a motion to compel Tran to individual arbitration in March 2022, and requested a stay of further briefing in anticipation of a decision in *Viking River Cruises, Inc. v. Moriana* (2022) 142 S. Ct. 1906, 1910, while also filing a motion to stay proceedings pending *Viking*, which Plaintiff agreed not to oppose after review. Khoury Decl., ¶ 20.

On January 19, 2023, the Parties mediated once more, engaging in good faith, arms'-length and informed negotiations facilitated by Francis J. Ortman III, an experienced and well-regarded wage and hour mediator. The Parties reached an agreement, for which Plaintiffs now seek Court approval. Khoury Decl., ¶ 21; SA, ¶ II (6). In preparation for mediation, PAGA counsel, with the assistance of an expert consultant, reviewed and mathematically analyzed the data and all information obtained through informal and formal discovery² and extrapolated

² In preparation of mediation, Instawork produced an excel spreadsheet reflecting all of the time and pay records for a one-year time period for all workers. This amounted to an approximate 50% sample for the PAGA period. Instawork also produced a version of the "Contractor Services Agreement" and the "Instawork Terms of Use" contracts accepted by the PAGA Settlement Group Members. Khoury Decl., ¶ 22.

1 potential PAGA civil penalties for each alleged violation on behalf of all alleged PAGA
2 Members. Khoury Decl., ¶ 22.

3 To effectuate the Settlement and comply with PAGA's exhaustion requirements,
4 Plaintiffs agreed to file an amended PAGA Notice and Complaint. Khoury Decl., ¶ 23; SA, ¶ III
5 (2). The amended PAGA Notice was submitted on behalf of Plaintiffs Tran and Basu-
6 Kesselman against Instawork and AWS on June 20, 2023, alleging violations of Labor Code
7 sections 201-203, 204, *et seq.*, 210, 212, 216, 221-223, 225.5, 226, 226.3, 226.7, 226.8, 227.3,
8 246, 248.5, 256, 351, 510, 512, 515, 551, 552, 558, 558.1, 1174, 1174.5, 1191.1, 1194, 1197,
9 1197.1, 1198, 1199, 2800, 2802, and 2808, the applicable Industrial Welfare Commission Wage
10 Order(s), and related California Code of Regulations, and is therefore actionable under
11 California Labor Code section 2699.3. Khoury Decl., ¶ 24, Exhibit 5 – Joint PAGA Notice. At
12 no time did the LWDA notify either Plaintiff Basu-Kesselman or Plaintiff Tran of an intention
13 to investigate the allegations contained in the Joint PAGA Notice and neither Instawork nor
14 AWS served notice it intended to cure any alleged defect pursuant to the PAGA (Labor Code §
15 2699.3). Khoury Decl., ¶ 25. The court accepted the Parties' stipulation to file an Amended
16 Complaint reflecting the allegations in the Joint PAGA Notice on October 25, 2023, and the
17 Amended Complaint was filed on October 30, 2023. Khoury Decl., ¶ 26, Amended Complaint.
18 The Amended Complaint seeks PAGA Civil Penalties for Violations of Labor Code Sections:
19 1) 226.8 for Willful Misclassification; 2) 223, 558.1, 1194, 1197, 1197.1, the Applicable Wage
20 Order, and Related California Code of Regulations for Failure to Pay All Minimum Wages and
21 Required Wages; 3) 510, 1194, 1198, the Applicable Wage Order, and Related California Code
22 of Regulations for Failure to Pay All Overtime Wages; 4) 204, 210, 212, the Applicable Wage
23 Order, and Related California Code of Regulations for Failure to Pay All Wages; 5) 226.7, 512,
24 the Applicable Wage Order, and Related California Code of Regulations for Failure to Provide
25 Timely and Compliant Meal Periods; 6) 226.7, the Applicable Wage Order, and Related
26 California Code of Regulations for Failure to Provide Timely and Compliant Rest Periods; 7)
27 246, *et seq.* and 2808 for Failure to Provide Sick Pay and Health Coverage Information; 8) 221-
28 223, 351, the Applicable Wage Order, and Related California Code of Regulations for Unlawful

1 Deduction of Wages; 9) 226, 226.3, 558.1, 1174, the Applicable Wage Order, and Related
2 California Code of Regulations for Failure to Provide Accurate and Itemized Wage Statements
3 and Maintain Accurate and Complete Payroll Records; 10) 201-203, 227.3 and 558.1 for Failure
4 to Timely Pay All Wages Including Vested Vacation Pay Due to Terminated/Separated
5 Employees; 11) 2800, 2802, the Applicable Wage Order, and Related California Code of
6 Regulations for Failure to Reimburse All Reasonable and Necessary Business Expenses; and
7 (12) 551, 552, the Applicable Wage Order, and Related California Code of Regulations for
8 Violation of Seventh Day of Rest. Khoury Decl., ¶ 27, Amended Complaint, Caption.

9 **IV. PLAINTIFFS' CONTENTIONS AND DEFENDANTS' DEFENSES**

10 Plaintiffs contend Instawork willfully misclassified its workers as independent
11 contractors. Khoury Decl., ¶ 28, Amended Complaint, ¶ 14. Plaintiffs and PAGA Members
12 worked in positions including but not limited to, restaurant service, delivering goods,
13 merchandising, custodial services, janitorial tasks, picking and packing goods, and
14 warehousing. Khoury Decl., ¶ 29, Amended Complaint, ¶ 15. Plaintiffs contend Instawork
15 employed them because they were engaged in Instawork's core business of manual labor, and
16 Instawork assigned their hourly pay rates, had the power to control their manner and means of
17 work, and instructed them on how to perform their jobs, including through trainings. Khoury
18 Decl., ¶ 30, Amended Complaint, ¶¶ 16-18. As a result of this misclassification, Plaintiffs
19 contend, Instawork failed to provide: wages for all time worked because they were only paid
20 while clocked in for a job, were never paid overtime wages, and sometimes worked while
21 clocked out for lunch; business expense reimbursements, including for cell phones (needed to
22 use the application) and personal vehicles (needed to drive to assigned jobs); meal and rest
23 breaks, due to busy work schedules; sick pay and notice of sick pay; health coverage
24 information; seventh day of rest; and as a result of the above, accurate wage statements, payroll
25 records and final wages. Plaintiffs also contend Instawork failed to pay the employer's share of
26 payroll taxes and other employer obligatory payments. Plaintiffs further contend that AWS
27 employees are also owed wages, meal and rest break premiums, sick pay, accurate notice of
28 sick pay, wage statements and payroll records, health coverage information and reimbursement

1 for employment-related expenses. Khoury Decl., ¶ 31, Amended Complaint.

2 Instawork contends its workers are properly classified as independent contractors who
3 use its application to find work, and as such, are not entitled to the civil penalties Plaintiffs seek
4 for violations of Labor Code provisions which do not apply to them. Khoury Decl., ¶ 32;
5 Nordrehaug Decl., ¶ 7. Likewise, AWS similarly contends that it has complied with the
6 California Labor Code, the applicable Wage Order, and related California Code of Regulations.
7 Defendants also vehemently contest the merits and the manageability of Plaintiffs' claims.
8 Khoury Decl., ¶ 33; Nordrehaug Decl., ¶ 7. Defendants further argue that Plaintiffs and PAGA
9 Members signed arbitration agreements in which they agreed to arbitrate their individual
10 claims. Defendants further contend that at the time of mediation in early 2023, under *Viking*, the
11 proper course would have been to compel the individual PAGA claims to arbitration and
12 dismiss the remainder of the action. See *Viking River Cruises, Inc. v. Moriana* (2022) 142 S. Ct.
13 1906, 1925 ("As a result [of her individual claim being compelled to arbitration], Moriana lacks
14 statutory standing to continue to maintain her non-individual claims in court, and the correct
15 course is to dismiss her remaining claims."); Khoury Decl., ¶ 34.

16 **V. SUMMARY OF PROPOSED SETTLEMENT**

17 **A. Monetary Relief**

18 Pursuant to the terms of this Settlement, Defendants will pay a maximum non-
19 reversionary Gross PAGA Settlement Amount of \$3,550,000.00. SA, ¶ I (15). Subject to Court
20 approval, from the Gross PAGA Settlement Amount, the following shall be deducted:
21 administration expenses not to exceed \$80,000³ to the Settlement Administrator, SA, ¶ III (9.c);
22 PAGA Counsel's attorneys' fees of up to one-third (1/3) of the Gross PAGA Settlement
23 Amount, \$1,183,333.33, and litigation costs not to exceed \$61,000,⁴ SA, ¶ III (9.c); and an
24

25
26 ³ Barring a change in the number of PAGA Settlement Group Members, the Not-to-Exceed
27 Total is **\$73,500.00**. Declaration of Jodey Lawrence on Behalf of Phoenix Class Action
Administration Solutions ("Phoenix Decl."), ¶ 16, Exhibit B.

28 ⁴ To date, PAGA counsel has incurred actual costs in the amount of \$56,577.74 (\$112.54 +
\$22,425.23 + \$34,039.97). See Declaration of Jonathan Lebe ("Lebe Decl."), ¶ 12 (\$112.54),
Nordrehaug Decl., ¶ 9 (\$22,425.33), Khoury Decl., ¶ 35 (\$34,039.97). Counsel at Cohelan

enhancement award of up to \$10,000 to each named Plaintiff in exchange for a general release of all claims against Released Parties, defined *infra*, SA, ¶ III (9.d.). Based on the amounts requested below, the remaining “PAGA Payment” is estimated to be \$2,216,416.85 and will be disbursed as directed by the PAGA (Labor Code § 2699(i)) with \$1,662,312.64 (75%) paid to the Labor and Workforce Development Agency (“LWDA”); and, \$554,104.21 (25%) distributed proportionately to PAGA Members.

Subject to Court approval, Plaintiffs propose the \$3,550,000.00 Gross PAGA Settlement Amount be distributed as follows:

1. GROSS PAGA SETTLEMENT AMOUNT:	\$ 3,550,000.00
Attorneys’ Fees:	-\$ 1,183,333.33
Attorneys’ Expenses and Costs:	-\$ 56,749.82
Administration Payment:	-\$ 73,500.00
Enhancement Awards:	-\$ 20,000.00
	(\$10,000 per Plaintiff)
2. PAGA PAYMENT:	\$ 2,216,416.85
Labor Workforce & Development Agency: 75%	\$ 1,662,312.64
Aggrieved Employees: 25%	\$ 554,104.21

From the amount of \$554,104.21, Individual PAGA Payments will be paid to the approximately 34,709 PAGA Members based on the number of PAGA Hours each worked during the PAGA Period. SA, ¶ I (12). With an aggregate of approximately 5,428,116 hours, or 287,138 pay periods, worked by all PAGA Members, each will receive an estimated \$1.93 per pay period (\$554,104.21/287,138 Pay Periods), or \$0.10 per hour (\$554,104.21/5,428,116). SA, ¶ III (8); Khoury Decl., ¶ 36.

B. Scope of Release

“Released Parties” means Garuda Labs, Inc. dba Instawork, Advantage Workforce Services, LLC, and each of its or their past, present, and future direct or indirect parents,

Khoury & Singer will incur an additional \$172.08 in estimated future costs for motion filing fees, for a total of **\$56,749.82** in costs. Khoury Decl., ¶ 35.

1 subsidiaries, affiliates, holding companies, affiliated companies, partnerships, and limited
2 liability companies, as well as each of its or their past, present, and future officers, directors,
3 employees, partners, members, managers, customers, subcontractors, shareholders and agents,
4 attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with
5 Defendants. Each individual person or entity within the meaning of the term “Released Parties”
6 shall be referred to as a “Released Party.” SA, ¶ I (29).

7 “Released PAGA Claims” means any and all PAGA claims against the Released Parties
8 for civil penalties, attorneys fees and costs under California Labor Code sections 2698, *et seq.*,
9 including claims for violation of California Labor Code sections 201-203, 204, 210, 212, 216,
10 221-223, 225.5, 226, 226.3, 226.7, 226.8, 227.3, 246, 248.5, 256, 351, 510, 512, 515, 551, 552,
11 558, 558.1, 1174, 1174.5, 1191.1, 1194, 1197, 1197.1, 1198, 1199, 2800, 2802, and 2808, as
12 well as any claims derivative of or related to the foregoing Sections, and any and all applicable
13 Industrial Welfare Commission Wage Orders and related California Code of Regulations, and
14 any and all other PAGA claims that were alleged, or reasonably could have been alleged based
15 upon the factual allegations stated in Plaintiffs’ LWDA Notices (and/or any amendments
16 thereto) and operative Complaints (and/or any amendments thereto) in the *Basu-Kesselman*
17 PAGA Action and/or the *Tran* PAGA Action, at any time during the PAGA Period. Released
18 PAGA Claims do not include all other claims, including claims for vested benefits, wrongful
19 termination, violation of the Fair Employment and Housing Act, unemployment insurance,
20 disability, social security, workers’ compensation, underlying California non-PAGA wage and
21 hour claims, and PAGA claims outside of the PAGA Period. The Released PAGA Claims do
22 not include any claims that cannot be released as a matter of law. The Released PAGA Claims
23 shall be released against all Released Parties. The Released PAGA Claims are extinguished and
24 may not be brought by a successor, spouse, heir, agent, or other person or entity. The period of
25 the Released PAGA Claims shall be for the PAGA Period. In no event shall the release of the
26 Released PAGA Claims in this Settlement Agreement release any individual claims of any
27 individual. SA, ¶ III (10.b).

28 ///

C. Settlement Administration

No later than twenty-one (21) calendar days after the Court's order granting approval of the Settlement, Defendants will provide the Settlement Administrator with a list of all PAGA Members with necessary identifying information as set forth in the SA, ¶¶ III (6), IV (2). The Parties propose Phoenix Class Action Administration Solutions as the Settlement Administrator. The Settlement Administrator will administer the Settlement consistent with the Settlement Agreement and the Final Order and Judgment. SA, ¶ IV (1-6). The Settlement Administrator is qualified to administer, and has procedures to administer, the Settlement, and will adequately protect PAGA Settlement Group Member Data. Phoenix Decl., ¶¶ 1-16.

D. Disbursement of Settlement Funds

Defendant shall fund the Settlement in two (2) payments. The first payment of \$1,775,000 (50% of the Gross PAGA Settlement Amount) will be due within the later of fourteen (14) days after the Effective Date, or October 1, 2023. A second payment of \$1,775,000 (the remaining 50% of the Gross PAGA Settlement Amount) will be due within the later of ninety (90) days of the Effective Date, or January 3, 2024. Khoury Decl., ¶ 37; SA, ¶ III (7). As described in the Settlement Agreement, the Gross PAGA Settlement Amount will be distributed in two increments, and will be fully distributed within fifteen (15) days after the Settlement Administrator receives the full amount of the Gross PAGA Settlement Amount from Defendants. Khoury Decl., ¶ 38; SA, ¶ IV (2-3). All checks not cashed within one hundred eighty (180) days of the initial mailing shall be paid to the California Controller's Unclaimed Property Fund in the name of the PAGA Settlement Group Member. Khoury Decl., ¶ 39; SA, ¶ IV (2). The PAGA Settlement Group Members are bound by the release of the Released PAGA Claims regardless of whether they cash their check representing their share of the Individual PAGA Payment. *Id.* PAGA Settlement Group Members will be sent a Notice by the Administrator explaining this Settlement and what claims are being released by it. Khoury Decl., ¶ 39, Exhibit 7 thereto, Instawork & AWS PAGA Settlement Notice.

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VI. THE COURT SHOULD GRANT APPROVAL OF THE PAGA SETTLEMENT

A. The Standard for Review and Approval of PAGA Settlements

The PAGA statute specifically provides that “[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part.” Lab. Code § 2699(1)(2). The statute, however, does not require a two-step (preliminary and final approval) process or otherwise mimic the class action approval requirements when the parties reach a settlement only as to PAGA civil penalties. See *Arias v. Superior Court* (2009) 46 Cal.4th 969, 975 (class action requirements “need not be met when an employee’s representative action against an employer is seeking civil penalties” under PAGA). “[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; *see also Salazar v. Sysco Cent. Cal., Inc.* (E.D. Cal. February 2, 2017) 2017 U.S. Dist. LEXIS 14971, *6 (finding courts should “approve a settlement of PAGA claims upon a showing that the settlement terms (1) meet the statutory requirements set forth by PAGA, and (2) are fundamentally fair, reasonable, and adequate in view of PAGA’s public policy goals.”). PAGA’s public policy goals have been described by the LWDA as “augmenting the state’s enforcement capabilities, encouraging compliance with Labor Code provisions, and deterring noncompliance.” *O’Connor v. Uber Techs., Inc.* (N.D. Cal. August 18, 2016) 201 F. Supp. 3d 1110, 1132-1133.

In addition, a court must independently determine whether a PAGA settlement is fair, adequate, and reasonable using similar factors that apply to the evaluation of the fairness of a class action settlement, “including the strength of the plaintiff’s case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount.” *Moniz*, 72 Cal. App.5th at p. 77.

B. The Settlement Is Fair, Adequate, and Reasonable

The Gross PAGA Settlement Amount of \$3,550,000 is significant enough to deter Defendants and other employers from future violations. Khoury Decl., ¶ 40. The Settlement provides a substantial benefit to the State of California, with the LWDA receiving at least

1 \$1,662,312.64 to assist with the future enforcement of state labor laws. Khoury Decl., ¶ 41. The
2 Settlement also provides a substantial benefit to PAGA Members, who will share at least
3 \$554,104.21. *Id.* Accordingly, the Settlement fulfills the underlying purposes of the statute and
4 confers a substantial benefit on the public.

5 In assessing whether the Settlement is fair, reasonable, and adequate, the Court may
6 balance the amount in penalties with the risks of further litigation. Here, Plaintiffs obtained a
7 meaningful amount in civil penalties despite facing significant challenges and risks had the
8 litigation continued. The Parties participated in mediation and entered into a Memorandum of
9 Understanding to resolve the Actions in January 2023—*after* the U.S. Supreme Court decided
10 *Viking River Cruises v. Moriana* (2022) 142 S.Ct. 1906 (holding plaintiff has no standing to
11 pursue representative PAGA claims once individual claims are compelled to arbitration), but
12 *before* the California Supreme Court decided *Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.
13 5th 1104 (holding standing is not thereby lost). Khoury Decl., ¶ 42.

14 Plaintiffs considered several factors in reaching the decision to settle at this point in the
15 litigation, including: (a) the risk that the *Adolph* Court would agree with the *Viking River* Court
16 on the PAGA standing issue such that Plaintiffs could be compelled to individual arbitration
17 and their representative PAGA claims could be dismissed; (b) the risk that the Court would
18 strike all or parts of Plaintiffs’ claims on manageability grounds; (c) the risk and uncertainty in
19 proving liability and PAGA penalties at trial; (d) the prospect that the Court could substantially
20 reduce any award of civil penalties on the grounds that “to do otherwise would result in an
21 award that is unjust, arbitrary and oppressive, or confiscatory,” pursuant to Labor Code section
22 2699(e)(2); and (e) the risk that Defendants would appeal any unfavorable judgment. Khoury
23 Decl., ¶ 43.

24 Considering the risks of continued litigation, the uncertainties involved in light of the
25 *Viking River* decision, the burdens of proof necessary to establish liability, and the probability
26 of appeal of a favorable judgment, it is clear that the non-reversionary settlement amount of
27 \$3,550,000 is fair, adequate, and reasonable in light of PAGA’s purpose to remediate present
28 labor law violations, to deter future violations, and to maximize enforcement of the Labor Code.

1 Khoury Decl., ¶ 44.

2 Plaintiffs have calculated the maximum potential penalties to be approximately \$208.1
3 million, using initial violations rates.⁵ Khoury Decl., ¶ 45; *see Amaral v. Cintas Corp. No.*
4 *2* (2008) 163 Cal.App.4th 1157, 1209 (holding the “initial violation” rate is assessed per pay
5 period, and the “subsequent violation rate” cannot be assessed until the defendant has been put
6 on notice of the violation.). At the time of the settlement, Plaintiffs’ counsel estimated a 50
7 percent likelihood that Plaintiffs’ representative PAGA claims would be dismissed on the basis
8 of *Viking River*, reducing the value of the PAGA claims to approximately \$104 million. Khoury
9 Decl., ¶ 46. Plaintiffs’ counsel further estimated a 50 percent chance that the Court would not
10 award maximum penalties, even if Plaintiffs prevailed, because it would be confiscatory to do
11 so given that the average PAGA Member worked only 18.9 hours per weekly pay period
12 (5,428,116 hours/287,138 weekly pay periods), less than half of full-time employment, reducing
13 the value of the claims to approximately \$52 million. Khoury Decl., ¶ 47. Plaintiffs’ counsel
14 also estimated a 25 percent likelihood claims would be dismissed as unmanageable, given that
15 PAGA Members worked in a variety of positions in a variety of locations for a variety of
16 customers, under *Wesson v. Staples the Office Superstore, LLC* (2021) 68 Cal. App. 5th 746,
17 772-773 (explaining variance in work experiences by managers working at various stores made
18 exempt misclassification case unmanageable), 775 (upholding trial court’s decision to strike

19 ⁵ Plaintiffs calculated maximum civil penalties based on 287,138 pay periods as \$28.7 million
20 dollars per underlying cause of action, for minimum wages, overtime wages, sick pay, meal
21 periods, rest periods, unlawful deductions, and wage statements, yielding \$201 million in civil
22 penalties (\$28.7 million x 7 violations). For unpaid final wages, which could have only
23 occurred in the final pay period, for 4,342 separated individuals, Plaintiffs calculated \$434,000,
24 or \$0.43 million in civil penalties. Likewise, for willful misclassification, Plaintiffs calculated
25 one violation per 34,709 individuals, or \$3.47 million. And for expense reimbursement, which
26 is typically paid monthly, Plaintiffs calculated civil penalties as follows: 287,138 weekly pay
27 periods/4.3 weeks per month=66,776 x \$100 per month= \$6.7 million. In total, maximum civil
28 penalties were calculated as \$211.6 million (\$201 million + \$0.43 million + \$3.47 million +
\$6.7 million= \$208.1 million). Plaintiffs do not calculate civil penalties for failure to pay
wages under Labor Code sections 204 and 210 because Plaintiffs do not believe this is
recoverable, given that they do not allege Defendants’ *timing* of payment of wages was
incorrect. *See See’s Candy Shops, Inc. v. Superior Court* (2012) 210 Cal. App. 4th 889, 904-
905 (“Read in context, the reference to ‘All wages’ in section 204, subdivision (a) pertains to
the timing of wage payments and not to the manner in which an employer ascertains each
employee’s worktime.”). Khoury Decl., ¶ 45.

Wesson’s PAGA claim); *but see Estrada v. Royalty Carpet Mills, Inc.* (2022) 76 Cal.App.5th 685, 697, review granted June 22, 2022, S274340 (holding that courts cannot strike PAGA claims on the basis of manageability concerns). This reduced the value to \$40.5 million. Khoury Decl., ¶ 48.

If Plaintiffs overcome all these risks, PAGA Counsel estimated only a 25 percent chance of prevailing at trial, reducing penalties to \$10.1 million, based on the following arguments: First, if a court ruled PAGA Members were not misclassified, all claims derivative of this misclassification would likewise fail. *See, e.g. Leverage v. Traeger Pellet Grills, LLC* (N.D. Cal. Dec. 15, 2017) 2017 U.S. Dist. LEXIS 206814, *13-14 (“A finding that Plaintiffs were not misclassified would result in no or very limited class recovery.”); *see also Sportsman v. A Place for Rover, Inc.* (C.D. Cal. May 6, 2021) 537 F. Supp. 3d 1081, 1085 (granting defendant’s motion for summary judgment where there was no genuine dispute of material fact that workers who used an application to offer pet care services, set their prices, and chose locations, using the defendant’s platform, were independent contractors). Second, Plaintiffs considered additional risks associated with their underlying wage and hour claims, including that PAGA members did not clock out for meal and rest breaks, raising issues of proof, and that Plaintiffs could not prove that Instawork *willfully* misclassified them, negating civil penalties for Labor Code sections 226 and 203. *See Naranjo v. Spectrum Security Services, Inc.* (2023) 88 Cal. App. 5th 937, 952 (upholding appeals courts’ denial of waiting time penalties, and reversing award of wage statement penalties, because there was substantial evidence the employer had a good faith defense to liability.) That the settlement does not obtain maximum recovery should not stop this Court from approving it. Khoury Decl., ¶ 49; *see, e.g. Jordan v. NCI Grp., Inc.* (C.D. Cal January 5, 2018) 2018 U.S. Dist. LEXIS 25297, *2, *6-8 (approving a \$150,000 PAGA Settlement payment, far short of the possible maximum, because it was “paid in exchange for a release of only those claims pled in the notice to the LWDA and the Complaint... [had] a substantial deterrent effect on [defendant] and other California employers”).

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1 This Settlement represents 1.1 percent (\$2,216,416.85/\$201 million) of the maximum
2 value of the claims and 22 percent (\$2,216,416.85/\$10.1 million) of the rationally discounted
3 value of the claims. Khoury Decl., ¶ 50. At least one California appellate Court upheld an
4 award one-fifth this relative size, or 0.2% of the maximum requested. *Carrington v. Starbucks*
5 *Corp.* (2018) 30 Cal. App. 5th 504, 517 (4th DCA) (plaintiff requested “nearly \$70 million in
6 penalties”; trial court’s \$150,000 award upheld on appeal). Indeed, even if a PAGA claim is
7 viable, the Court has authority to reduce penalties, as long as not to “zero.” *Thurman v.*
8 *Bayshore Transit Management, Inc.* (2012) 203 Cal. App. 4th 1112, 1135 (2012).

9 For these reasons, the Court should find the Settlement amount fair, adequate, and
10 reasonable. Khoury Decl., ¶ 51; Nordrehaug Decl., ¶ 5.

11 **VII. THE REQUESTED ATTORNEYS’ FEES AND COSTS ARE REASONABLE**

12 The Settlement provides for attorneys’ fees to PAGA Counsel in an amount up to one-
13 third of the Gross Settlement Amount, for a maximum fee award of \$1,183,333.33, plus
14 reasonable litigation costs not to exceed \$61,000. Khoury Decl., ¶ 52, SA ¶ III (9.b.). Plaintiffs
15 request actual costs of \$56,749.82, and attorneys’ fees pursuant to the “common fund theory”
16 with a lodestar cross-check. *See Laffitte v. Robert Half Int’l, Inc.* (2016) 1 Cal. 5th 480, 504
17 (“[t]he lodestar method better accounts for the amount of work done, while the percentage of
18 the fund method more accurately reflects the results achieved.”).

19 **A. Plaintiffs’ Counsel Are Entitled to Attorneys’ Fees and Costs under PAGA**

20 Labor Code section 2699(g)(l) provides that “[a]ny employee who prevails in any
21 [PAGA] action shall be entitled to an award of reasonable attorney’s fees and costs.” Here,
22 Plaintiffs are the prevailing party with a net monetary recovery. *See DeSaulles v. Cmty Hosp. of*
23 *Monterey Peninsula* (2016) 62 Cal.4th 1140, 1157 (“the rule is that a partial recovery, as long
24 as it is a net monetary recovery, entitles a plaintiff to costs.”). Accordingly, Plaintiffs are
25 entitled to recover reasonable attorneys’ fees and costs.

26 **B. The Requested Fees Are Reasonable Under the Common Fund Method**

27 A request for attorneys’ fees as a percentage of the gross settlement amount is supported
28 by the “common fund theory,” where “one who expends attorney fees in winning a suit which

1 creates a fund from which others derive benefits, may require those passive beneficiaries to bear
2 a fair share of the litigation costs.” *Serrano v. Priest* (1977) 20 Cal.3d 25, 35 (internal citations
3 and quotations omitted). In *City and County of San Francisco v. Sweet* (1995) 12 Cal.4th 105,
4 the California Supreme Court recognized that the common fund doctrine has been applied
5 “consistently in California when an action brought by one party creates a fund in which other
6 persons are entitled to share.” *Id.* at p. 110, fn. omitted.

7 California courts routinely award attorneys’ fees equaling one-third or more of the
8 common fund. Nordrehaug Decl., ¶ 8; *see, e.g., Laffitte*, 1 Cal.5th at p. 506 (affirming fee award
9 representing one-third of fund); *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, n.11
10 (“fee awards in class actions average around one-third of the recovery”); Eisenberg & Miller,
11 Attorney Fees in Class Action Settlements: An Empirical Study, J. of Empirical Legal Studies,
12 Vol. 1, Issue 1, 27-78, March 2004, at p. 35 (independent studies of class action litigation
13 nationwide conclude that fees representing one-third of the total recovery is consistent with
14 market rates).

15 In addition, a fee award in the amount of one-third of the fund is reasonable because it
16 best reflects the market rate for contingency fees. *See Lealao v. Beneficial California, Inc.*
17 (2000) 82 Cal.App.4th 19, 47 (“[A]ttorneys providing the essential enforcement services must
18 be provided incentives roughly comparable to those negotiated in the private bargaining that
19 takes place in the legal marketplace.”).

20 Here, PAGA Counsel’s request for attorneys’ fees in the amount of one-third of the
21 gross Settlement is in line with what California courts grant and is reasonable given the work
22 undertaken and result achieved. First, the settlement amount of \$3,550,000 is substantial,
23 deterring non-compliance with the Labor Code. Khoury Decl., ¶ 53. Second, PAGA Counsel
24 have litigated the Actions for over three years on a purely contingent basis, incurring significant
25 costs with no guarantee of recovery. Khoury Decl., ¶ 54. Third, Plaintiffs’ counsel invested over
26 945.4 hours⁶ of attorney and support staff time in the Actions, with payment deferred to the end
27

28 ⁶ 231.7 hours (CKS) + 334 hours (Blumenthal) + 379.7 hours (Lebe) = 945.4 hours. Lebe
Decl., ¶¶ 13-14, Nordrehaug Decl., ¶ 8, Exhibits 1 and 2 thereto; Khoury Decl., ¶ 55, Exhibit 6

1 and entirely contingent on the outcome. Khoury Decl., ¶ 55. Accordingly, Plaintiffs' request for
2 attorneys' fees in the amount of \$1,183,333.33, or one-third of the total fund, is reasonable
3 under California law.

4 **C. The Requested Fees Are Reasonable Under the Lodestar Cross-Check**

5 PAGA Counsel's request for attorneys' fees is reasonable based upon a crosscheck of
6 PAGA Counsel's lodestar with the application of a multiplier. Under the lodestar method, the
7 court reviews the hours expended by, and rates charged by, counsel and support staff to
8 determine the reasonableness of the fee requested. *Ramos v. Countrywide Home Loans, Inc.*
9 (2000) 82 Cal.App.4th 615, 622. The moving party meets its burden in this regard by submitting
10 "declarations evidencing the reasonable hourly rate for their services and establishing the
11 number of hours spent working on the case" as "California case law permits fee awards in the
12 absence of detailed time sheets." *Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 254-
13 55; *Dunk v. Ford Motor Company* (1996) 48 Cal.App.4th 1794, 1810; *Nightengale v. Hyundai*
14 *Motors America* (1994) 31 Cal.App.4th 99, 103. The hours spent and multiplied by the
15 reasonable hourly rate to compute the "lodestar" figure; the court may then apply a "multiplier"
16 to the lodestar to arrive at a reasonable fee award. See *Ramos*, 82 Cal.App.4th at p. 622.

17 Here, PAGA Counsel's lodestar is \$652,524.50 which is based on 945.4 hours
18 expended at customary hourly rates. Khoury Decl., ¶ 56, Exhibit 6 (\$147,894.50); Nordrehaug
19 Decl., ¶ 8 (\$260,507.50), Exhibits 1 and 2; Lebe Decl., ¶ 15 (\$244,122.50), Exhibit B. As
20 Plaintiffs are requesting attorneys' fees in the amount of \$1,183,333.33, Plaintiffs are
21 requesting a 1.81 multiplier be applied. Khoury Decl., ¶ 57.

22 Three bases support a finding that this request is reasonable.

23 First, the hours expended were reasonable to achieve the excellent result on behalf of
24 the State and the PAGA Members. Khoury Decl., ¶ 58.

25 Second, the hourly rates sought are in line with the prevailing local market rates for
26 attorneys with similar experience. Khoury Decl., ¶ 59; Nordrehaug Decl., ¶ 11; Lebe Decl., ¶
27 thereto, Summary of Time and Costs. PAGA Counsel for Blumenthal anticipates incurring
28 \$10,000 to \$20,000 in additional lodestar after this billing was finalized for future work.
Nordrehaug Decl., ¶ 8.

14, Exhibit B, Laffey Matrix; *see also Roberti v. OSI Sys., Inc.*, No. CV1309174MWFMRW, (C.D. Cal. Dec. 8, 2015) 2015 WL 8329916, at *7 (finding rates between \$525 and \$975 per hour reasonable); *Rodriguez v. County of Los Angeles* (C.D. Cal. 2014) 96 F.Supp.3d 1012, 1023 (approving attorney rates in 2014 from \$500 to \$975); *Perfect 10, Inc. v. Giganews, Inc.*, No. CV 11-07098-AB SHX, (C.D. Cal. Mar. 24, 2015) 2015 WL 1746484, at *15-18, *aff'd*, (9th Cir. 2017) 847 F.3d 657 (finding hourly rates of \$825-\$930 for a senior partner, \$350-\$690 for associates, and \$290 and \$240 for support staff—for work performed in 2011 and 2014—to be reasonable and prevailing market rates at that time). PAGA Counsel are experienced litigators who specialize in employment law, with a substantial wage and hour class action practice. Khoury Decl., ¶¶ 1-8; Nordrehaug Decl., ¶¶ 10-11; Lebe Decl., ¶¶ 3-11. PAGA Counsel’s hourly rates are thus reasonable.

Third, the application of a positive multiplier of 1.81 is appropriate here. In California, “[m]ultipliers can range from two to four or even higher” and are routinely applied in the range requested by PAGA Counsel as part of a lodestar cross-check. *See, e.g., Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 (upholding 2.5 multiplier); *Craft v. County of San Bernardino* (C.D. Cal. 2008) 624 F.Supp.2d 1113, 1125 (awarding a common fund fee which amounted to a 5.2 multiplier); *Vizcaino v. Microsoft Corp.* (9th Cir. 2002) 290 F.3d 1043, 1051 (approving a 3.65 multiplier); *Steiner v. Am. Steiner v. Am. Broad. Co.* (9th Cir. 2007) 248 F. App’x 780, 783 (concluding that a 6.85 multiplier “falls well within the range of multipliers that courts have allowed” in common fund cases). Khoury Decl., ¶ 60.

Factors a trial court should consider in determining a multiplier are: “(1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, (4) the contingent nature of the fee award.” *See Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132 (citations omitted). In *Ketchum*, the California Supreme Court held that fee enhancement in contingency cases is necessary to (1) fully compensate counsel for the “loan” of legal services in light of the inherent high risk of “default” posed by losing the case, and (2) encourage competent counsel to take on fee award cases. *Id.* at pp. 1132-1133.

Here, Plaintiffs request application of a 1.81 multiplier as part of the lodestar cross-check. Khoury Decl., ¶ 61. PAGA Counsel agreed to litigate the Actions on a contingent fee basis, assuming considerable risk of nonrecovery. *Id.*, ¶ 62. Further, this litigation—which has been litigated for over three years—precluded PAGA Counsel from working on other employment cases, making “the ultimate risk of not obtaining fees all the greater.” *Horsford v. Board of Trustees of California State University* (2005) 132 Cal.App.4th 359, 399-400; Khoury Decl., ¶ 63. Finally, complex issues attended these misclassification Actions, given the in-flux nature of this area of law and of PAGA actions in general. Khoury Decl., ¶ 64; *see also* AB 5, codified as Labor Code section 2775 (effective January 2020, codified and broadened California Supreme Court’s 2018 *Dynamex Operations West, Inc v. Superior Court* (2018) 4 Cal.5th 903 (“*Dynamex*”) decision); *Vazquez v. Jan-Pro Franchising Internat.* (2021) 10 Cal. 5th 944, 944 (finding *Dynamex* applies retroactively to all nonfinal cases that predate the effective date of the *Dynamex* decision).

D. The Requested Counsel Costs Are Reasonable

PAGA Counsel is entitled to reimbursement of reasonable litigation costs under PAGA. See Lab. Code § 2699(g)(l). The Settlement provides for reimbursement of costs not to exceed \$61,000. SA, ¶ III (9.c). To date, PAGA Counsel have incurred actual costs in the amount of \$56,749.82. Because these costs were reasonably incurred in prosecuting the Actions on behalf of the State of California and PAGA Members, they should be approved. Khoury Decl., ¶ 65.

VIII. THE REQUESTED ADMINISTRATION COSTS ARE REASONABLE

The Parties propose Phoenix Class Action Administration Solutions (“Phoenix”) to administer the settlement as set forth in the Settlement Agreement. Phoenix has extensive experience administering class and representative action matters and has been appointed as the settlement administration in matters pending in both state and federal court. Phoenix Decl., ¶ 6. The Settlement provides for Administration Costs up to \$80,000.00 to be paid from the Gross PAGA Settlement Amount to the Settlement Administrator. SA, ¶ III (9.c). Phoenix has submitted a bid for the capped amount of \$73,500. Phoenix Decl., ¶ 16, Ex. B. Given the number of PAGA Members and the scope of Phoenix’s duties to be performed, the Court

1 should approve the proposed Settlement Administrator and the requested Administration Costs
2 of \$73,500 as reasonable. Khoury Decl., ¶ 66.

3 **IX. THE REQUESTED ENHANCEMENT AWARDS ARE REASONABLE**

4 This Settlement, and the benefit it has conferred on the State of California and PAGA
5 Members, would not have been possible without Plaintiffs. Khoury Decl., ¶ 67. The Settlement
6 provides that Plaintiffs shall each be paid an enhancement award in an amount not to exceed
7 \$10,000, for a total of \$20,000, in exchange for a general release of claims against the Released
8 Parties. SA, ¶ (9.b.). The amount requested is reasonable in light of enhancement awards
9 approved in other PAGA settlements. *See, e.g., Blanchard v. BJ's Restaurants, Inc.*, Orange
10 County Superior Court Case No. 30-2014-00761961-CU-OE-CXC (Sept. 26, 2016) (approving
11 \$10,000 service award); *Bui v. Vitamin Shoppe Industries Inc.*, Los Angeles County Superior
12 Court Case No. BC518486 (Aug. 31, 2016) (approving \$10,000 service award); *Miranda v.*
13 *HomeDeliveryLink, Inc.*, San Bernardino County Superior Court Case No. CIVDS1505393
14 (Aug. 9, 2016) (approving \$10,000 service award); *Sheldon v. AHMC Monterey Park Hospital*
15 *LP*, Los Angeles County Superior Court Case No. BC440282 (March 2, 2016) (approving
16 \$10,000 service award).

17 The amount is also reasonable in light of Plaintiffs' contributions and releases given.
18 Khoury Decl., ¶ 68. Plaintiffs each initiated and have helped to move forward their respective
19 Action under the PAGA, made themselves available for the joint mediation, and reviewed and
20 signed the MOU and settlement agreement to resolve the Actions, as detailed in their
21 declarations. Basu-Kesselman Decl., ¶¶ 6-10; Tran Decl., ¶¶ 5-11. Importantly, each Plaintiff
22 also gives a general release of claims as part of the Settlement, a much broader release than that
23 given by other PAGA Members. Basu-Kesselman Decl., ¶ 13; Tran Decl., ¶ 12; SA, ¶¶ III
24 (9.d.), (12). Accordingly, Plaintiffs respectfully request that the Court approve enhancement
25 awards in the amount of \$10,000 to each plaintiff.

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1 **X. CONCLUSION**

2 Based on the foregoing, Plaintiffs respectfully request that the Court approve the
3 Settlement and enter the proposed judgment.

4 Respectfully submitted,

5 BLUMENTHAL NORDREHAUG BHOWMIK
6 DE BLOUW LLP
7 COHELAN KHOURY & SINGER
8 LEBE LAW, APLC

9 Dated: October 31, 2023

By: 

10 Isam C. Khoury
11 Michael D. Singer
12 Rosemary C. Khoury
13 Attorneys for Plaintiffs
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