

LIDMAN LAW, APC

Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
Romina Tamiry (SBN 328420)
rtamiry@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff ADAN VASQUEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ADAN VASQUEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

GITIBIN & ASSOCIATES, INC. d/b/a GO
RENTALS, a California corporation; and
DOES 1 through 25, inclusive,

Defendants.

Case No.: 20VECV00834

*[Assigned for All Purposes to the Hon. Huey P.
Cotton, Dept. A]*

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR SETTLEMENT APPROVAL OF
CLAIMS BROUGHT UNDER THE PRIVATE
ATTORNEYS GENERAL ACT AND
REASONABLE ATTORNEYS' FEES, COSTS,
AND ENHANCEMENT AWARD**

Date: August 10, 2021
Time: 8:30 a.m.
Dept.: A

Reservation ID: 963555490023

Complaint Filed: August 3, 2020
Trial Date: None Set

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on August 10, 2021 at 8:30 a.m., or as soon thereafter as the
3 matter may be heard in Department A of the above-entitled Court, located at 6230 Sylmar Avenue,
4 Van Nuys, California 91401, Plaintiff Adan Vasquez (“Plaintiff”), on behalf of himself and all other
5 aggrieved employees, will and hereby does move this Court for entry of an Order as follows:

- 6 1. Granting approval, pursuant to California Labor Code § 2698 *et seq.*, and specifically §
7 2699(l), of the proposed Settlement of claims brought pursuant to the Private Attorneys
8 General Act of 2004 (Cal. Labor Code § 2698 *et seq.*) and set forth in the Settlement;
- 9 2. Appointing Phoenix Class Action Administrators as the Settlement Administrator, and
10 approving an award of \$2,500.00 in anticipated costs to Phoenix Class Action
11 Administrators for its settlement administration services;
- 12 3. Approving the proposed Notice of PAGA Settlement and Release of Claims as to form and
13 content, and directing that it be distributed to the Aggrieved Employees pursuant to the
14 terms of the Settlement;
- 15 4. Directing the distribution of the Gross Settlement Amount pursuant to the terms of the
16 Settlement;
- 17 5. Approving an award of one-third of the Gross Settlement Amount (\$45,000.00) in
18 attorneys’ fees to Plaintiff’s Counsel;
- 19 6. Approving an award of \$13,545.25 in verified litigation costs reimbursement to Plaintiff’s
20 Counsel;
- 21 7. Approving an enhancement award of \$5,000.00 to Plaintiff for his service to the Aggrieved
22 Employees and the State of California; and
- 23 8. Approving the payment of \$51,716.06 to the California Labor & Workforce Development
24 Agency for its share of PAGA civil penalties.
- 25 9. Approving the payment of \$17,238.69 to the Aggrieved Employees on a pro rata basis based
26 on number of pay periods worked during the relevant time period.

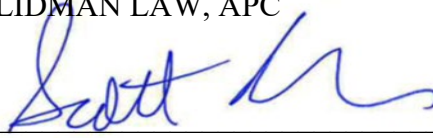
27 This Motion is based on this Notice, the attached Memorandum of Points and Authorities; the
28 declarations of Scott M. Lidman, Elizabeth Nguyen, Paul K. Haines, Plaintiff Adan Vasquez, and
Jodey Lawrence on behalf of Phoenix Settlement Administrators and the exhibits attached thereto, the

1 pleadings and other papers filed in this action, and on any further oral or documentary evidence or
2 argument presented at the time of hearing.

3
4 Dated: July 15, 2021

Respectfully Submitted,
LIDMAN LAW, APC

5
6 By:



Scott M. Lidman
Attorneys for Plaintiff
ADAN VASQUEZ

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**¹

2 **I. INTRODUCTION**

3 Plaintiff Adan Vasquez (“Plaintiff”), an “Aggrieved Employee” under the California Labor
4 Code § 2698 *et seq.* (“PAGA”), respectfully requests that this Court issue an Order granting approval
5 of the Settlement² reached with Gitibin & Associates, Inc. d/b/a Go Rentals (“Go Rentals” or
6 “Defendant”).

7 This proposed PAGA Settlement,³ under which Go Rentals has agreed to pay a non-
8 reversionary amount of \$135,000.00, will dispose of Plaintiff’s representative PAGA claim filed on
9 behalf of the State of California and all “Aggrieved Employees” as defined by Labor Code § 2699(c)
10 and the operative Complaint on file in this action. This PAGA action is predicated on Go Rentals’
11 alleged: (1) failure to provide all legally complaint meal periods; (2) failure to authorize and permit all
12 legally required rest periods; (3) failure to pay all overtime wages owed; (4) failure to maintain accurate
13 records; (5) failure to pay all earned wages at least twice during each calendar month; and (6) failure
14 to pay all wages due upon termination of employment.

15 This PAGA action seeks civil penalties for violations on behalf of the California Labor &
16 Workforce Development Agency (“LWDA”) and all “Aggrieved Employees,” defined in the
17 Settlement as “all current and former hourly, non-exempt employees of Defendant Gitibin &
18 Associates, Inc. d/b/a Go Rentals who worked in California at any time from April 6, 2019 through the
19 date the Court grants approval of the Settlement.”⁴ Notably, the relief provided under the Settlement
20 is *solely* for the payment of *civil penalties* under the PAGA, and the claims released under the
21 Settlement are limited to claims for *civil penalties* under the PAGA. The release in the Settlement does
22

23 ¹ Given the multiplicity of issues addressed herein, Plaintiff’s memorandum of points and authorities necessitates
24 exceeding the 15-page limit set forth in California Rule of Court 3.1113(d). As this Motion is unopposed,
Plaintiff respectfully requests that the Court consider the entire Motion, which is 22 pages in length.

25 ² The Settlement Agreement (“Settlement”) is attached to the Declaration of Scott M. Lidman as Exhibit 2. The
26 Proposed Notice of PAGA Settlement and Release of Claims is attached to the Settlement as Exhibit A. All
defined terms in this Motion have the same definitions as used in the Settlement.

27 ³ Plaintiff will have the proposed Settlement and instant motion served on the LWDA via its website pursuant to
Labor Code § 2699(1)(2) after Plaintiff causes the instant motion to be filed. *See* Declaration of Scott M. Lidman.
28 (“Lidman Decl.”), ¶ 40.

⁴ The period of April 6, 2019 through the date the Court grants approval of the Settlement is defined in the
Settlement as the “PAGA Period.” *See* Settlement, ¶ I.12.

1 not impact any underlying Labor Code claims any of the Aggrieved Employees may have. Based on
2 the information provided by Go Rentals, the number of Aggrieved Employees is estimated at 155
3 individuals.

4 In deciding whether to grant approval of the Settlement, the primary issue to be decided is
5 whether the Settlement is fair, reasonable, and adequate. As set forth herein, the proposed Settlement
6 embodies all of the features of a settlement that is fair, reasonable, and adequate, as it (1) is the product
7 of arm's-length negotiations, (2) was negotiated by attorneys experienced in wage-and-hour issues, (3)
8 was negotiated subsequent to undertaking sufficient investigation to evaluate the relative strength and
9 value of the PAGA-based claims, and (4) reflects a reasoned compromise based directly on the relative
10 strength and value of the PAGA-based claims, as well as the risks, expense, complexity and likely
11 duration of further litigation.

12 This proposed Settlement provides for Go Rentals to pay a Gross Settlement Amount ("GSA")
13 of \$135,000.00 on a **non-reversionary** basis. After deducting amounts for requested attorneys' fees
14 (one-third of the GSA, currently estimated at \$45,000.00), requested verified costs incurred by
15 Plaintiff's counsel (\$13,545.25), an enhancement award for Plaintiff (\$5,000.00), and settlement
16 administration costs (\$2,500.00) to Phoenix Settlement Administrators, the Settlement provides for
17 distribution of approximately \$68,954.75 in civil penalties allocated as follows: (i) 75% (or
18 \$51,716.06) to the LWDA; and (ii) 25% (or \$17,238.69) to the Aggrieved Employees. There are
19 approximately 155 Aggrieved Employees, therefore, the average individual payment to each
20 Aggrieved Employee is estimated to be approximately \$111.22 (based on the assumption that each
21 employee worked for the same length of time during the relevant time period).

22 The GSA of \$135,000.00 represents a fair and reasonable recovery for the State of California
23 and Aggrieved Employees considering the limited release, which is limited solely to PAGA claims
24 based on the factual allegations in Plaintiff's operative Complaint. Further litigation may have resulted
25 in a smaller recovery or even no recovery at all based on the defenses asserted by Go Rentals and given
26 the significant litigation risks involved. Moreover, the GSA secured by Plaintiff is greater than other
27 PAGA penalty awards approved as reasonable within California state courts, which often range
28 between \$7,500.00 and \$15,000.00 for PAGA claims impacting hundreds or thousands of individuals,

1 resulting in much lower PAGA penalty payments on a per person basis. *See, e.g., Penaloza v. PPG*
2 *Industries Inc.*, Case No. BC471369, 2013 WL 2917624 at *2 (Super. Ct. L.A. County, May 20, 2013)
3 (approving PAGA penalties of \$5,000.00 to class of 667 members); *Cabrera v. Advantage Sale &*
4 *Marketing, LLC*, Case No. BC485259, 2013 WL 1182822 (Super. Ct. L.A. County, March 12, 2013)
5 (approving PAGA penalties of \$10,000.00 for class of approximately 3,000 members). The amounts
6 requested for attorneys' fees and costs, Plaintiff's enhancement awards, and settlement administration
7 costs are fair, adequate, and reasonable, particularly in light of the recovery obtained.

8 In light of the foregoing, Plaintiff respectfully requests that this Court should enter the
9 [Proposed] Order and Judgment Granting Plaintiff's Motion for Settlement Approval of Claims
10 Brought Under the Private Attorneys General Act and Reasonable Attorneys' Fees, Costs, and
11 Enhancement Award submitted concurrently herewith.

12 **II. SUMMARY OF THE LITIGATION**

13 **A. The Parties**

14 According to Go Rentals' website, it is an elite car rental service company and is the only car
15 rental company catering to the private jet industry and fine hotels. *See* Declaration of Scott M. Lidman.
16 ("Lidman Decl."), ¶ 10.

17 Plaintiff was employed by Go Rentals as an hourly, non-exempt employee from approximately
18 July 25, 2019 through approximately July 31, 2019, at which time he voluntarily separated his
19 employment with Go Rentals. *See* Declaration of Adan Vasquez ("Vasquez Decl."), ¶ 2. During his
20 employment with Go Rentals, Plaintiff worked as a Driver/Detailer. *Id.*

21 **B. Procedural History**

22 On May 27 2020, Plaintiff provided written notice to the LWDA and Go Rentals asserting
23 claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor
24 Code including: (i) failure to provide all legally required meal periods; (ii) failure to authorize and
25 permit all legally required rest periods; (iii) failure to pay all overtime wages owed, (iv) failure to
26 provide accurate, itemized wage statements; (v) failure to maintain accurate records; (vi) failure to pay
27 all earned wages at least twice during each calendar year; and (vii) failure to pay all wages owed upon
28 termination of employment. Lidman Decl., ¶ 11; Exh. 1. On August 3, 2020, after exhausting his

1 administrative remedies, Plaintiff filed a representative action complaint against Defendant which
2 asserted a sole claim for civil penalties under the PAGA on behalf of himself and other non-exempt
3 employees of Go Rentals working in California. *Id.*

4 On October 27, 2020, Plaintiff filed a First Amended Representative Action Complaint
5 (“FAC”) removing the allegations regarding Defendant’s fictitious business name. *Id.* Then, on
6 December 14, 2020, pursuant to the Court’s order granting Defendant’s Motion to Strike Portions from
7 Plaintiff’s FAC, Plaintiff filed a Second Amended Representative Action Complaint (“SAC”), which
8 is the operative Complaint in this Action.⁵ *Id.* Shortly thereafter, the Parties agreed to attend private
9 mediation. *Id.*

10 **C. Informal Discovery**

11 After the Parties agreed to attend mediation, and in response to Plaintiff’s Counsel’s informal
12 discovery requests, Go Rentals provided Plaintiff’s Counsel with substantial information and documents
13 pertaining to Plaintiff and other Aggrieved Employees in order for Plaintiff’s Counsel to investigate
14 Plaintiff’s allegations and value the PAGA claim including, without limitation, the employee handbook,
15 payroll records, timekeeping records and other pertinent documents relevant to the claims at issue.
16 Lidman Decl., ¶ 12.

17 **D. Mediation and Arms-Length Negotiations In Connection Therewith**

18 In connection with mediation, Go Rentals provided Plaintiff with a sampling of timekeeping
19 records and payroll data as well as its wage and hour policies and other relevant documents and
20 information for the underlying claims. Lidman Decl., ¶ 13. Plaintiff conducted an analysis of the
21 payroll data and time records produced by Go Rentals to calculate the potential exposure for each of
22 Plaintiff’s claims. *Id.* After the detailed review of the sampling of payroll and time records and other
23 documents and policies produced by Go Rentals, Plaintiff’s Counsel drew on their extensive
24 experience in similar cases to assess the strengths and weaknesses of Plaintiff’s case. *Id.* This
25 discovery allowed the parties to assess the merits and value of Plaintiff’s claims and defenses thereto,
26 if a settlement could not be reached. *Id.*

27
28 ⁵ Plaintiff submitted a copy of the SAC to the LWDA via its website on February 12, 2021. Lidman Decl., ¶ 41, Exh. 5.

On April 12, 2021, the Parties participated in a full-day mediation with Tripper Ortman, Esq., a respected wage and hour class and representative action mediator. Lidman Decl., ¶¶ 13-14. During mediation, the Parties vigorously debated their opposing legal positions and the likelihood of Plaintiff’s ability to proceed on a representative basis. Lidman Decl., ¶ 14. Although the Parties were unable to reach a settlement at the mediation, the Parties continued to engage in settlement discussions with the assistance of the mediator. Ultimately, the Parties reached a settlement, the terms of which were subsequently finalized in writing in the months that followed. Lidman Decl., ¶ 14, Exh. 2.

III. ARGUMENT

A. Standard For Approval Of A PAGA Settlement

The settlement of a PAGA claim requires court approval pursuant to the operative PAGA statute, which states that the “court shall review and approve any penalties sought as part of a proposed settlement agreement pursuant to this part.” *See* Labor Code § 2699(l).

As with any settlement, the Court must be mindful in conducting its inquiry that “[s]ettlement is a compromise, which balances the possible recovery against the risks inherent in litigating further.” *See In re TD Ameritrade Account Holder Litig.*, 2011 WL 4079226, *9 (N.D. Cal. Sept. 13, 2011). Indeed, “the very essence of a settlement is ... ‘a yielding of absolutes and an abandoning of highest hopes,’” as “it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements.” *See Officers for Justice v. Civil Service Com.*, 688 F.2d 615, 624-25 (9th Cir., 1982). As such, “the settlement or fairness hearing is not to be turned into a trial or rehearsal for trial on the merits” or “judged against a hypothetical or speculative measure of what might have been achieved by the negotiators.” *Id.*

Although the operative PAGA statute does not set forth the criteria by which a PAGA settlement is to be judged, it is presumed that a reviewing court may utilize some of the factors for review of a class action settlement. However, “a PAGA claim asserted on a non-class representative basis...is not considered a class action but a law enforcement action, and therefore does not have to meet the requirements of [a class action].” *See Casida v. Sears Holdings Corp.*, 2012 WL 253217 at *3 (E.D. Cal. Jan. 26, 2012); *Thomas v. Aetna Health of Cal., Inc.*, 2011 WL 2173715 at *13 (E.D. Cal. Jun. 2, 2011); *Mendez v. Tween Brands, Inc.*, 2010 WL 2650571 at *4 (E.D. Cal. Jul. 1, 2010). A

1 court's review of a PAGA settlement necessarily implicates the following unique features that render
2 the approval process distinct from approval of a class action settlement under section 382 of the Code
3 of Civil Procedure and Rule 3.769 of the California Rules of Court.

4 First, in evaluating the adequacy of the settlement amount, the Court's focus is not concerned
5 with the amount(s) that "aggrieved employees" are to receive, but rather, must focus on the total
6 settlement amount in achieving PAGA's objective. Indeed, "[t]he remedy sought in a PAGA suit
7 consists of civil penalties, not individual or class damages." *Mendez, supra*, 2010 WL 2650571 at *4.
8 "Unlike class actions, these civil penalties are not meant to compensate unnamed employees because
9 the action is fundamentally a law enforcement action." *Ochoa-Hernandez v. Cjaders Foods, Inc.*, 2010
10 WL 1340777 at *4 (N.D. Cal. Apr. 2, 2010). Moreover, while "[a PAGA] action is ... designed to
11 protect the public and penalize the employer for past illegal conduct" (*Mendez*, 2010 WL 2650571 at
12 *4), a reviewing Court must take into account the fact that settlement of a PAGA claim – like any
13 settlement – involves a "compromise" that stops short of rendering findings of liability and damages.
14 The Court must not lose sight of the fact that "[u]nlike a class action seeking damages or injunctive
15 relief for injured employees, the purpose of PAGA is to incentivize private parties to recover civil
16 penalties for the government that otherwise may not have been assessed and collected by overburdened
17 state enforcement agencies." *Ochoa-Hernandez, supra*, 2010 WL 1340777 at *4.

18 Second, consistent with the fact that unnamed employees have no property interest in a PAGA
19 claim,⁶ "[u]nnamed employees need not be given notice of the PAGA claim, nor do they have the
20 ability to opt-out of the representative PAGA claim." *Ochoa-Hernandez* at *5. This renders the
21 approval process of a PAGA settlement distinct from a class action settlement, as there is no need for
22 the Court to employ the "two-step approval process" required under Rule 23(e) of the Federal Rules of
23 Civil Procedure and Rule 3.769.⁷ *See Malibu Outrigger Bd. of Governors v. Superior Court*, 103
24

25 ⁶ As held by the California Supreme Court, "[t]he Labor Code Private Attorneys General Act of 2004 does not
26 create property rights or any other substantive rights" as "[i]t is simply a procedural statute allowing an aggrieved
27 employee to recover civil penalties—for Labor Code violations—that otherwise would be sought by state labor
28 law enforcement agencies." *See Amalgamated Transit Union, Local 1756, AFL-CIO v. Sup. Ct.*, 46 Cal. 4th 993,
1003 (2009).

⁷ Significantly, the "two-step" approval process of Rule 23(e) is required to facilitate "notice" to absent class
members [e.g. *In re TD Ameritrade Account Holder Litig.*, Case No. C 07-2852 SBA, 2011 WL 4079226 at *4

1 Cal.App.3d 573, 578-79 (1980) (The class action approval process consists of preliminary settlement
2 approval, notice being given to class members, and a final fairness and approval hearing being held, at
3 which class members have the opportunity to be heard with respect to the settlement. *Id.* Now that
4 notice has been provided to the Settlement Class, Plaintiff respectfully requests that the Court finally
5 approve the Settlement as fair, adequate, and reasonable.)

6 Finally, unlike a class action settlement, the scope of release permitted in a PAGA settlement
7 is limited. While “judgment in [a PAGA] action is binding not only on the named employee plaintiff
8 but also on government agencies and any aggrieved employee not a party to the proceeding...the non-
9 party employees, because they were not given notice of the action or afforded any opportunity to be
10 heard, would not be bound by the judgment as to remedies other than civil penalties.” *See Arias v. Sup.*
11 *Ct.*, 46 Cal. 4th 969, 986-87 (2009). Thus, the scope of a release in a PAGA settlement is necessarily
12 strictly confined to the PAGA penalties alleged in the complaint and claims that were or could have
13 been alleged pursuant to PAGA based on the factual allegations in the Complaint.⁸ In the case at hand,
14 as the only claims at issue are PAGA claims, those will be the only claims extinguished because of this
15 Settlement.

16 **B. This Court Should Approve The Settlement Because It Is A Fair, Adequate, And**
17 **Reasonable Compromise Of Disputed Claims**

18 California courts have a strong policy in favor of settlement. *See, e.g., Stambaugh v. Superior*
19 *Court* 62 Cal.App.3d 231, 236 (1976). Unlike individual settlements, class action settlements (and

20 _____
21 (N.D. Cal. Sept. 13, 2011) (“Approval under this rule entails a two-step process: (1) preliminary approval of the
22 settlement; and (2) final approval of the settlement at a fairness hearing following notice to the class.”)], as Rule
23 23(e) expressly requires notice and an opportunity for absent class members to exclude themselves or object. *See*
24 *Fed. R. Civ. Proc. R. 23(e)* (“The following procedures apply to a proposed settlement...(1) The court must direct
notice in a reasonable manner to all class members who would be bound by the proposal...(4)... the court may
refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class
members...(5) Any class member may object to the proposal if it requires court approval under this
subdivision”). Cal. Rules of Court, Rule 3.769 contains similar rules for State court class actions.

25 ⁸ This is contrasted with the much broader release permitted in a class action context, which may be based on
26 “any matter or fact” alleged in the complaint. *See In re Corrugated Container Antitrust Litigation*, 643 F.2d 195,
27 221(5th Cir. 1981) (“The weight of authority establishes that ... a court may release not only those claims alleged
28 in the complaint and before the court, but also claims which ‘could have been alleged by reason of or in
connection with any matter or fact set forth or referred to in’ the complaint.”); *Hesse v. Sprint Corp.*, 598 F.3d
581, 590 (9th Cir., 2010) (“we have held that federal district courts properly released claims not alleged in the
underlying complaint where those claims depended on the same set of facts as the claims that gave rise to the
settlement.”).

representative PAGA settlements) involve a court approval process that exists to prevent fraud, collusion, and unfairness to absent individuals. *See Malibu Outrigger Bd. of Governors v. Superior Court*, 103 Cal.App.3d 573, 578-79 (1980). California law generally follows the same standards applicable under Rule 23 of the Federal Rules of Civil Procedure. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (stating that Rule 23(e) requires the trial court to determine “whether a proposed settlement is fundamentally fair, adequate, and reasonable”). To be approved, a settlement must be “fair, reasonable and adequate to all concerned.” *Reed v. United Teachers Los Angeles*, 208 Cal.App.4th 322, 337 (2012). Settlement is the preferred means of dispute resolution, particularly in complex representative litigation. *See In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008). The Court’s role in evaluating a proposed settlement is limited to ensuring that the agreement taken as a whole is fair and is not the product of fraud or collusion between the negotiating parties. *See, e.g., Hanlon, supra*, 150 F.3d at 1027. There is an initial presumption of fairness when the settlement agreement was negotiated at arm’s length by experienced counsel. *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 130 (2008). Because this Settlement is fair, adequate, and reasonable, Plaintiff respectfully requests that the Court approve the Settlement.

1. Factors in Evaluating a Representative PAGA Settlement

A settlement is presumptively fair where it is reached through arm’s-length bargaining, based on sufficient discovery and investigation to allow counsel and the court to act intelligently, and counsel is experienced in similar litigation. *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1802 (1996). In deciding whether to approve a proposed settlement, a trial court has broad powers to determine if the proposed settlement is fair under the circumstances of the case. *Mallick v. Sup. Ct.*, 89 Cal.App.3d 434, 438 (1979). In exercising these powers, the overriding concern is to ensure that a proposed settlement is “fair, adequate, and reasonable.” *Dunk*, 48 Cal.App.4th at 1801 (internal quotations omitted). Relevant factors for the Court to consider include, but are not limited to:

[T]he strength of Plaintiff’s case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

1 *Id.* These factors require balancing, are non-exhaustive and, as such, trial courts should tailor the
2 factors to each case and give due regard to “what is otherwise a private consensual agreement between
3 the parties.” *Id.* As explained above, in the context of a representative PAGA settlement, the third and
4 eighth factors (risk of maintaining class action status and reaction of class members to settlement) are
5 inapplicable.

6 “In the context of a settlement agreement, the test is not the maximum amount Plaintiffs might
7 have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the
8 circumstances.” *Wershba v. Apple Computer, Inc.*, 91 Cal.App.4th 224, 250 (2001). Because
9 settlements inherently involve compromise, even settlements providing for substantially narrower
10 relief than likely would be obtained if the suit were successfully litigated can be reasonable because
11 “the public interest may indeed be served by a voluntary settlement in which each side gives ground in
12 the interest of avoiding litigation.” *Id.* (quoting *Air Line Stewards, etc., Local 550 v. Am. Airlines, Inc.*,
13 455 F.2d 101, 109 (7th Cir. 1972). In addition, courts review the discovery process and information
14 received through it to aid them in assessing whether the parties sufficiently developed the claims and
15 their supporting factual bases before reaching settlement. *See Kullar, supra*, 168 Cal.App.4th at 129-
16 31. Information is sufficient where it allows the parties and the court to form “an understanding of the
17 amount that is in controversy and the realistic range of outcomes of the litigation.” *Clark v. Am.*
18 *Residential Serv. LLC*, 175 Cal.App.4th 785, 801 (2009). This requirement exists so that the parties
19 can provide the court with “a meaningful and substantiated explanation of the manner in which the
20 factual and legal issues have been evaluated.” *Kullar*, 168 Cal.App.4th at 132.

21 **a) The Strength of Plaintiff’s Case**

22 Here, Aggrieved Employees’ claims arise from Go Rentals’ compensation policies/practices
23 and its meal and rest period policies/practices. Specifically, Plaintiff alleges that due to Go Rentals’
24 compensation and meal and rest policies and practices, Aggrieved Employees were not paid for all
25 overtime wages owed and did not receive all legally required meal and rest periods. As a result,
26 Plaintiff alleges Go Rentals failed to pay Aggrieved Employees all wages due upon termination of
27 employment.
28

1 Although he steadfastly maintains that the PAGA action is meritorious, Plaintiff acknowledges
2 that his position includes real risks and uncertainty, especially in the face of Go Rentals’ numerous
3 defenses on the merits as discussed below in Section B.1.(f). While Plaintiff maintains he would
4 overcome these defenses, Plaintiff nonetheless faced several substantial challenges in prevailing in this
5 matter, and this factor therefore supports approval of the Settlement.

6 **b) Overview of the Proposed Settlement**

7 **i. “Aggrieved Employees” Defined**

8 Aggrieved Employees are defined as, “all current and former hourly, non-exempt employees
9 of Defendant Gitibin & Associates, Inc. d/b/a Go Rentals who worked in California at any time from
10 April 6, 2019 through the date the Court grants approval of this Settlement.” *See* Settlement, ¶ I.2. The
11 Aggrieved Employees, including Plaintiff, worked a total of approximately 4,049 pay periods between
12 April 6, 2019 through June 11, 2021. *See* Settlement, ¶ III.3.

13 **ii. Essential Terms Of The Settlement**

14 This Settlement provides for Go Rentals to pay a Gross Settlement Amount of \$135,000.00.
15 *See* Settlement, ¶ I.9. After deducting amounts for requested attorneys’ fees, attorneys’ costs,
16 Plaintiff’s requested enhancement award, and settlement administration costs, the Settlement provides
17 for distribution of the remaining Net Settlement Amount (“NSA”) to Aggrieved Employees and the
18 LWDA distributed as follows: 75% to the LWDA and 25% to Aggrieved Employees pursuant to Labor
19 Code 2699(i). *See* Settlement, ¶ III.5. The Settlement is non-reversionary and does not require
20 Aggrieved Employees to submit a claim form to reap financial benefit from the Settlement. *See*
21 Settlement, ¶ I.9.

22
23 **Gross Settlement Amount: \$135,000.00⁹**

24
25 ⁹ As of June 11, 2021, Defendant represents there are an estimated 4,049 pay periods worked by the Aggrieved
26 Employees during the period of April 6, 2019 through June 11, 2021. If the number of pay periods worked by
27 aggrieved employees during this period is more than 10% greater than this figure, Defendant agrees to either (a)
28 increase the Gross Settlement Amount on a proportional basis (i.e., if there was a 15% increase in the number of
pay periods worked by aggrieved employees during the PAGA Period, Defendant would increase the Gross
Settlement Amount by 15%) or (b) revise the end date of the PAGA period to the date that the pay periods
increased more than 10% greater than this 4,049 pay periods figure. *See* Settlement, ¶ III.3.

Minus Court-approved attorneys' fees (1/3):	\$45,000.00 ¹⁰
Minus Court-approved attorneys' costs:	\$13,545.25
Minus Court-approved enhancement award:	\$5,000.00
Minus settlement administrator costs:	\$2,500.00
Net Settlement Amount:	\$68,954.75

Net Settlement Amount:	\$68,954.75
75% to LWDA	\$51,716.06
25% to Aggrieved Employees	\$17,238.69

Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator within thirty (30) calendar days of the Effective Date.¹¹ See Settlement, ¶ III.2.

Within ten (10) business days after the Effective Date, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees. Settlement, ¶ IV.2. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, total number of pay periods worked during the PAGA Period or dates of employment, and Social Security number. The list shall also include the sum total of all pay periods worked by Aggrieved Employees during the PAGA Period. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access shall be limited to those with a need to use the list as part of the administration of the Settlement. *Id.* Within seven (7) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties approval, an anonymized

¹⁰ If the Gross Settlement Amount increases due to the triggering of the Escalator Clause in Section III.3 of the Settlement, the amount of attorneys' fees awarded to Plaintiff's counsel shall increase commensurately.

¹¹ "Effective Date" means the date upon entry of an Order by the Court approving the Settlement, and, that the time to challenge any aspect of the Settlement by appeal has lapsed, provided that no such appeal has been filed, or, if any such appeal is filed, the date after a final resolution of all appeals that results in the upholding of the Settlement. Settlement, ¶ I.6.

spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee and the data used to calculate said payments. *Id.*

Within two (2) business days of receiving approval from counsel of the payment calculations as provided above, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties, in English and Spanish, along with Individual PAGA Payments to all Aggrieved Employees via regular First-Class U.S. Mail. Settlement, ¶ IV.3. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining uncashed for more than 180 days after issuance, will be tendered to the State Controller's Office under the unclaimed property fund laws in the names of the Aggrieved Employees to whom the checks were issued. Settlement, ¶ IV.4.

iii. Payment to the LWDA and Aggrieved Employees

The entire NSA shall be designated as PAGA civil penalties. Of the NSA, 75% of the NSA will be distributed to the LWDA and 25% will be distributed to the Aggrieved Employees. *See* Labor Code § 2699(i) ("Except as provided in subdivision (j), civil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the [LWDA] for enforcement of labor laws and education of employers and employees about their rights and responsibilities under this code...and 25 percent to the aggrieved employees.").

Based on these distributions, the amount to be paid to the LWDA will be \$51,716.06 and the amount paid to Aggrieved Employees is estimated to be \$17,238.69. Lidman Decl., ¶ 15. This portion of the Net Settlement Amount shall be paid to all Aggrieved Employees pro rata based on the proportional number of pay periods worked by each Aggrieved Employee during the PAGA Period. Settlement, ¶ III.5.b.; Lidman Decl., ¶ 16. The average payment to an Aggrieved Employee is estimated to be **\$111.22**. *Id.*

c) Risk, Expense, Complexity, and Duration of Further Litigation

Although the Parties had not yet engaged in substantial formal discovery, the Parties did commit to an extensive exchange of informal documents and information in association with mediation. *See* Lidman Decl., ¶ 39. Preparation for trial remained for the parties as well as the prospect of appeals in the wake of a summary judgment ruling for either party. As a result, the Parties would incur

considerably more attorneys' fees and costs through trial. This settlement avoids those risks and the accompanying expense. *Id.*

d) Discovery Completed and the Status of Proceedings

As discussed above, the Parties engaged in informal discovery necessary to evaluate the value of the PAGA claims. *See* Lidman Decl., ¶ 13. In connection with mediation, Go Rentals provided Plaintiff with a sampling of timekeeping and payroll records for the Aggrieved Employees along with employee handbooks and other relevant data and insight, including the number of aggrieved employees as well as the number of relevant pay periods. *Id.* Only after the completion of this comprehensive informal discovery process, and significant discussions about the likelihood of prevailing on the merits, that the parties reached the proposed settlement. *Id.* Thus, this factor supports settlement approval.

e) Amount Offered in Settlement Given Realistic Value of Claims

This proposed Settlement provides a fair and reasonable monetary recovery for the LWDA and Aggrieved Employees in the face of disputed claims. Accordingly, Plaintiff estimated Go Rentals' realistic exposure for PAGA civil penalties as follows:

Civil Penalties Owed for Failing to Provide Legally Complaint Meal Periods: Plaintiff alleges that he and other Aggrieved Employees were not provided all required meal periods due to Go Rentals' meal period policies and practices which fail to provide a 30-minute uninterrupted meal period prior to the end of the fifth hour of work. Lidman Decl., ¶ 17. Specifically, as a result of the work demands imposed by Go Rentals, Plaintiff and other Aggrieved Employees often received late, short, missed, or otherwise unlawful meal periods. *Id.* Labor Code section 558 provides that an initial violation is assessed at \$50 for the initial violation for each underpaid employee for each pay period and \$100 for each subsequent violation. Based on the records and information produced by Go Rentals in connection with mediation, approximately 1,597 bi-weekly pay periods during the relevant time period contain at least one meal period premium payment. *Id.* Further, based on the data provided by Go Rentals, Plaintiff was unable to determine the amount of distinct meal period premium payments made, and how to many employees they were paid. As such, Plaintiff could not calculate Go Rentals' exposure for the subsequent violation rate. Accordingly, pursuant to Labor Code section 558, Plaintiff calculated Go Rentals' exposure at \$79,850.00 (1,597 x \$50 initial violation). *Id.*

1 Go Rentals counters that it has always provided non-exempt employees with an opportunity to
2 take legally compliant meal periods, and any non-compliant meal periods reflected in employee
3 timekeeping records were solely the result of employee choice, rather than any policy or practice of
4 Defendant. Lidman Decl., ¶ 18. It also argues that under *Brinker Restaurant Corp. v. Superior Court*
5 (2012) 53 Cal. 4th 1004, it is only required to “provide” the opportunity to take meal periods, not
6 “ensure” meal periods are taken, and that they have always done so. *Brinker, supra*, 53 Cal.4th at 1038
7 (rejecting “ensure” standard). *Id.* Go Rentals further contends it paid its non-exempt employees meal
8 period premiums when a meal period was not provided and paid 1,597 meal period premiums during
9 the relevant time period, negating an imposition of civil PAGA penalties. *Id.* Lastly, Go Rentals
10 contends that the Court would use its discretion provided for in the PAGA to reduce the maximum
11 penalty exposure due to its good faith efforts to comply with applicable law. In light of these defenses,
12 Plaintiff discounted the maximum recovery on this claim by 20% to account for the risk that Go Rentals
13 could prevail in its defenses, to arrive at a projected total of \$63,880.00. *Id.*

14 Civil Penalties Owed for Failing to Authorize and Permit Legally Complaint Rest Periods:

15 Plaintiff also alleges that he and other Aggrieved Employees were not authorized and permitted to take
16 all legally complaint rest periods. Lidman Decl., ¶ 19. Specifically, Plaintiff alleges that due to the
17 work demands imposed by Go Rentals, Plaintiff and other Aggrieved Employees were not authorized
18 and permitted paid rest periods for every four hours worked, or *major fraction thereof*. As such,
19 pursuant to Labor Code section 558, Plaintiff calculates a rest period violation for each of the 3,656
20 pay periods in the relevant time period. *Id.* Accordingly, Plaintiff calculates Go Rentals’ exposure as
21 follows: \$357,850 ((155 x \$50 initial violation) + (3,501 x \$100 subsequent violations)). *Id.*

22 Go Rentals contends it has always maintained and enforced lawful rest period policies and
23 practices, and that Plaintiff and other non-exempt employees were authorized and permitted to take all
24 off-duty rest periods in compliance with California law. Lidman Decl., ¶ 20. Go Rentals also contends
25 that Plaintiff could not recover the \$100 civil penalty for “subsequent violations” because it did not
26 have notice of any initial violation. *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1209 (2008);
27 *In re Taco Bell Wage and Hour Actions*, 2016 WL 2755938, at *7 (E.D. Cal. April 8, 2016). Lastly,
28 Go Rentals contends that the Court would use its discretion provided for in the PAGA to reduce the
maximum penalty exposure due to its good faith efforts to comply with applicable law. Given these

1 defenses, Plaintiff discounted the maximum recovery on this claim by 40% to account for the risk that
2 Go Rentals could prevail in its defenses, to arrive at a projected total of \$225,510.00. *Id.*

3 Civil Penalties Owed for Unpaid Overtime Wages: Plaintiff alleges that Go Rentals failed to
4 properly compensate Aggrieved Employees all their overtime wages owed. Lidman Decl., ¶ 21.
5 Specifically, other non-exempt employees received non-discretionary bonuses, including but not
6 limited to performance bonuses and/or other forms of pay not excludable as a matter of law when
7 calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively
8 referred to as "Incentive Pay"). Despite Go Rentals' payment of Incentive Pay to its non-exempt
9 employees, Go Rentals failed to include all forms of Incentive Pay when calculating their regular rate
10 of pay, thereby causing its non-exempt employees to be underpaid all their overtime wages.
11 Accordingly, to the extent that Go Rentals' payment of Incentive Pay resulted in unpaid overtime
12 wages, pursuant to Labor Code § 558 (civil penalties only, and not unpaid wages per *Lawson*), using
13 only the "initial" penalty for each violation, Plaintiff calculated Go Rentals' maximum exposure at
14 \$294,000.00 (2,944 pay periods x \$100 initial violation). *Id.*

15 Go Rentals counters that Aggrieved Employees received all overtime wages to which they were
16 entitled. Lidman Decl., ¶ 22. Go Rentals also contends that any payments of Incentive Pay to non-
17 exempt employees were included in the regular rate for purposes of overtime wages. Furthermore, Go
18 Rentals contends that the Court would use its discretion provided for in the PAGA to reduce the
19 maximum penalty exposure due to its good faith efforts to comply with applicable law. In light of these
20 defenses, Plaintiff discounted the maximum recovery on this claim by 40% to account for the risk that
21 Go Rentals could prevail in its defenses, to arrive at a projected total of \$176,640.00. *Id.*

22 Civil Penalties Owed for Failure to Timely Pay Wages During Employment: Additionally,
23 Plaintiff alleges that as a result of its failure to pay all meal and rest period premium wages and failure
24 to pay all overtime wages owed to Aggrieved Employees, Go Rentals failed to timely pay its employees
25 all wages owed during their employment pursuant to Labor Code 204. Lidman Decl., ¶ 23.
26 Accordingly, pursuant to Labor Code §210, Plaintiff calculated Go Rentals' maximum exposure at
27 \$715,700.00 ((155 x \$100 initial violation) + (3,501 x \$200 subsequent violation)). *Id.*

28 Go Rentals contends that Plaintiff could not recover the \$200 civil penalty for "subsequent
violations" because it did not have notice of any initial violation. Lidman Decl., ¶ 24; *Amaral v. Cintas*

1 *Corp. No. 2*, 163 Cal. App. 4th 1157, 1209 (2008); *In re Taco Bell Wage and Hour Actions*, 2016 WL
2 2755938, at *7 (E.D. Cal. April 8, 2016). Additionally, Go Rentals contends that the Court would use
3 its discretion provided for in the PAGA to reduce the maximum penalty exposure due to its good faith
4 efforts to comply with applicable law. In light of these defenses, Plaintiff discounted the maximum
5 recovery on this claim by 90% to account for the risk that Go Rentals could prevail in its arguments, to
6 arrive at a projected total of \$71,570.00. *Id.*

7 Civil Penalties for Failure to Pay All Wages Upon Separation of Employment: Plaintiff alleges
8 that Go Rentals is also liable for waiting time penalties as a result of its failure to pay all meal and rest
9 period premiums and its failure to pay all overtime wages. Lidman Decl., ¶ 25. From the records
10 produced by Go Rentals in connection with mediation, there were 99 former employees. Accordingly,
11 Plaintiff estimates Go Rentals' maximum exposure at \$9,900.00 (99 former employees x \$100). *Id.*

12 Go Rentals contends that due to its defenses to Plaintiff's underlying claims, waiting time
13 penalties are not available in connection with the alleged failure to pay all meal and rest period
14 premiums and failure to pay all overtime wages, and that it paid their employees all final wages due in
15 good faith. Lidman Decl., ¶ 26. Further, Go Rentals contends that a PAGA civil penalty for failure to
16 pay all wages owed upon termination is a one-time event based on one alleged violation of Labor Code
17 §§ 201-203, and not for every pay period within the PAGA period. As such, Plaintiff discounted the
18 exposure by 10% for a projected total recovery of \$8,910.00. *Id.*

19 Using these estimated figures for each of the claims described above, Plaintiff predicted the
20 realistic total recovery for the Aggrieved Employees if they succeeded on all of their allegations would
21 be approximately \$546,510.00. Lidman Decl., ¶ 27. The proposed settlement of \$135,000.00 therefore
22 represents approximately 24.7% which avoids the risks of proceeding through trial. *Id.* "The fact that
23 a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself,
24 mean that the proposed settlement is grossly inadequate and should be disapproved." *Linney v.*
25 *Cellular Alaska Partnership*, 151 F.3d 1234, 1242 (9th Cir. 1998) (internal quotations omitted).
26 Plaintiff acknowledges that there was substantial uncertainty and risk as to these claims. Approval is
27 appropriate since this settlement will provide tangible, monetary relief to Aggrieved Employees and
28 the State of California.

1 **f) The Experience and Views of Counsel**

2 “Parties represented by competent counsel are better positioned than courts to produce a
3 settlement that fairly reflects each party’s expected outcome in litigation.” *In re Pacific Enterprises*
4 *Securities Litigation*, 47 F.3d 373, 378 (9th Cir. 1995). Here, Plaintiff is represented by competent and
5 experienced wage and hour class action counsel, who pressed Plaintiff’s PAGA claim forward against
6 experienced and sophisticated defense counsel and believe this Settlement to be fair and adequate for
7 all involved. *See* Lidman Decl., ¶¶ 2-8; Declaration of Paul K. Haines (“Haines Decl.”), ¶¶ 2-4; and
8 Declaration of Elizabeth Nguyen (“Nguyen Decl.”), ¶¶ 2-8. This factor strongly supports settlement
9 approval. *See, Kullar, supra*, 168 Cal.App.4th at 130 (“The court undoubtedly should give
10 considerable weight to the competency and integrity of counsel and the involvement of a neutral
11 mediator in assuring itself that a settlement agreement represents an arm’s length transaction entered
12 without self-dealing or other potential misconduct.”).

13 **C. The Requested Award of Attorneys’ Fees and Litigation Costs Warrant This**
14 **Court’s Approval as Fair, Adequate, and Reasonable**

15 Plaintiff, as the prevailing party in settlement, is entitled to recover attorneys’ fees and costs
16 for these claims. *See* Cal. Labor Code § 2699(g) (“Any employee who prevails in any action shall be
17 entitled to an award of reasonable attorney’s fees and costs.”); Cal. Code of Civil Procedure §
18 1021.5(a). A fee award is justified where the legal action has produced its benefits by way of a
19 voluntary settlement. *See, e.g., Maria P. v. Riles*, 43 Cal.3d 1281, 1290-91 (1987); *Westside*
20 *Community for Independent Living, Inc. v. Obledo*, 33 Cal.3d 348, 352-53 (1983); *Serrano v. Priest*,
21 20 Cal.3d 25, 34 (1977) (“when a number of persons are entitled in common to a specific fund, and an
22 action brought by a plaintiff...for the benefit of all results in the creation or preservation of that fund,
such plaintiff...may be awarded attorney’s fees out of the fund.”)

23 Fee awards of roughly one-third of the settlement fund are routinely awarded in California state
24 and federal courts in class and representative PAGA actions. *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th
25 43, 66, fn. 11 (2008); *see also, In re Pacific Enterprises Securities Litig.*, 47 F.3d 373, 379 (9th Cir.
26 1995) (affirming 33% fee award); *Chavez v. Saticoy Lemon Ass’n*, Case No. 56-2015-00468600-CU-
27 OE-VTA, 2015 WL 5561118 (Ventura Cty. Super. Ct., Aug. 29, 2015) (approving attorneys’ fees of
28 one-third of settlement fund in representative PAGA settlement). Indeed, the California Supreme Court

1 approved the use of the “percentage of fund” method in California. *See Laffitte v. Robert Half Int’l,*
2 *Inc.*, 1 Cal.5th 480, 506 (2016) (“the percentage of fund method survives in California class action
3 cases...”); *see also Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993)
4 (holding that the percentage of the fund method more accurately reflects the results achieved than the
5 lodestar method); *In re Rite Aid Corp. Securities Litigation* 396 F.3d 294, 300 (3d Cir. 2005) (“The
6 percentage-of-recovery method is generally favored in common fund cases.”) This is also consistent
7 with Plaintiff’s Counsel’s experience in similar wage-and-hour class and PAGA matters. *See* Lidman
8 Decl., ¶ 28. Here, Plaintiff’s Counsel’s fee request of \$45,000.00 (one-third of the GSA) is the same
9 percentage sought in *Laffitte*, and is fair and reasonable based on the percentage of the recovery
10 method.

11 The California Supreme Court in *Laffitte* also held that trial courts have discretion to assess the
12 reasonableness of fee awards with tools such as the “lodestar cross-check,” whereby the trial court
13 calculates counsel’s lodestar and determines whether the “lodestar multiplier” needed to bring the
14 lodestar on par with the percentage of recovery is reasonable. *Laffitte*, 1 Cal.5th at 503-06. Under the
15 lodestar method, the court multiplies the number of hours reasonably expended by each attorney or
16 legal staff member by their reasonable hourly rates, then enhances this lodestar figure by a “multiplier”
17 to account for a range of factors. *See Serrano v. Priest* 20 Cal.3d 25, 48-49 (1977); *Ketchum v. Moses*,
18 24 Cal.4th 1122, 1132-36 (2001).

19 Lodestar multipliers can range from 2 to 4 or even higher. *See, e.g., Chavez, supra*, 162 Cal.
20 App. 4th at 49-50 (approving multiplier of approximately 2.5); *Coalition for L. County Planning etc.*
21 *Interest v. Bd. of Supervisors*, 76 Cal. App. 3d 241, 251 (1977) (approving multiplier of approximately
22 12.8). The court may “adjust the lodestar in comparison to a percentage of the common fund to ensure
23 that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace
24 in comparable litigation.” *Consumer Privacy Cases*, 175 Cal. App. 4th 545, 557 (2009). In doing so,
25 “the court determines, retrospectively, whether the litigation involved a contingent risk or required
26 extraordinary legal skill justifying augmentation of the unadorned lodestar in order to approximate the
27 fair market for such services.” *Id.* at 556; *see also Laffitte, supra*, 1 Cal.5th at 503-05.

28 In this case, Plaintiff’s Counsel have a lodestar of \$138,942.50 without the use of any multiplier,
which is approximately 3.08 times **more** than the \$45,000.00 fee request. Lidman Decl., ¶ 31. A

general summary showing the number of hours of work performed by each attorney and paralegals is set forth below. The billing rates used are reasonable especially in light of the hourly rates identified based on years of experience in the *Laffey* Matrix, submitted concurrently herewith. *Id.*, at ¶ 32, Exh. 3.

Name	Rate	Hours	Pre-Multiplier Lodestar
Scott M. Lidman (23rd Year Attorney)	\$750	77.5	\$58,125.00
Elizabeth Nguyen (16th Year Attorney)	\$650	36.2	\$23,530.00
Paul K. Haines (15th Year Attorney)	\$650	25	\$16,250.00
Romina Tamiry (2nd Year Attorney)	\$295	126	\$37,170.00
Paralegals	\$175	22.1	\$3,867.50
Total Lodestar			\$138,942.50

The fee award requested here is justified because Plaintiff's Counsel achieved a monetary recovery for the Aggrieved Employees in an uncertain and risky case, while bearing the substantial burdens of representation on a contingency basis, and the fees requested are in line with the market rate. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-51 (9th Cir. 2002) (finding that exceptional results in a contingency case, significant risk and the absence of supporting precedents, are proper considerations in awarding attorneys' fees). Additionally, Plaintiff's recovery for the State of California and Aggrieved Employees exceeds other PAGA awards approved by courts in California. *See, e.g., Boyd v. Bank of Am. Corp.*, 2014 WL 6473804 (C.D. Cal. Nov. 18, 2014) (approving \$18,750 PAGA payment); *Penaloza, supra*, 2013 WL 2917624 (average PAGA penalties of \$7.49); *Cabrera, supra*, 2013 WL 1182822 (average PAGA penalties of \$3.33). That Plaintiff's Counsel achieved these results without engaging in a protracted legal battle, in the face of serious defense challenges and an uncertain legal landscape, confirms the strength of the results achieved.

1 As discussed above, this case carried substantial risks on the merits and with respect to the
2 propriety of “stacking penalties” based on a single primary allegation and the Court’s authority to
3 reduce an award of PAGA penalties. It is fair and reasonable to account for these risks in compensating
4 Plaintiff’s Counsel, as well as the risks involved in undertaking this litigation and expending
5 considerable effort while working on a pure contingency basis.

6 Indeed, since undertaking representation of Plaintiff, Plaintiff’s Counsel dedicated substantial
7 resources to this litigation, including expending a total of \$13,545.25 (including approximately \$125
8 in anticipated costs associated with the instant motion) in verified litigation costs, without receiving
9 any compensation to date.¹² Lidman Decl., ¶ 37, Exh. 4. Plaintiff’s Counsel conducted extensive legal
10 research regarding the merits of Plaintiff’s claims, Plaintiff’s ability to recover penalties under the
11 PAGA, and Go Rentals’ potential defenses. *Id.* Plaintiff’s Counsel also conducted significant research
12 and analysis of data and information produced informally prior to mediation, prepared an exposure
13 analysis for PAGA penalties, and engaged in weeks of settlement negotiations through the assistance
14 of the mediator. *Id.* Plaintiff’s Counsel also expended significant additional effort in preparing
15 subsequent settlement documents, Plaintiff’s Opposition to Defendant’s Motion to Strike Portions from
16 Plaintiff’s FAC, this Motion for settlement approval, and supporting declarations, and will oversee the
17 settlement administration process. *Id.* Given the considerable potential for adverse outcomes in this
18 case, the contingent risk borne by Plaintiff’s Counsel was great. The quality of Plaintiff’s Counsel’s
19 work, and the efficacy and dedication with which it was performed, should be compensated.

20 Plaintiff’s Counsel collectively brings over four decades of wage-and-hour class and
21 representative action experience. *See* Lidman Decl., ¶¶ 2-8; Haines Decl., ¶¶ 2-4; and Nguyen Decl.,
22 ¶¶ 2-8. They have been certified as class counsel in numerous cases alleging wage and hour claims.
23 *Id.* Their experience in similar matters was integral in evaluating the strengths and weaknesses of the
24 case against Go Rentals and the reasonableness of the Settlement. Practice in the narrow field of wage-
25 and-hour litigation requires skill and knowledge concerning the rapidly evolving substantive state and
26 federal law, as well as the procedural law of class and representative action litigation. Lidman Decl.,
27

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¹² This includes total costs incurred by both law firms.

¶ 29. Because it is reasonable to compensate Plaintiff's Counsel commensurate with their skill, reputation, and experience, a fee award of one-third of the GSA is reasonable. Other factors show that the amount of fees requested is reasonable. This case involved nuanced legal issues regarding the propriety of civil PAGA penalties. *Id.* Go Rentals was also represented by respected counsel with extensive wage-and-hour litigation experience. Thus, Plaintiff's Counsel submit that the requested fee award is fair, reasonable and adequate and should be approved.

Plaintiff's request for reimbursement of litigation costs of \$13,545.25 is also fair and reasonable. As the evidence submitted herewith shows, all of Plaintiff's litigation costs are documented and reasonably incurred. *See* Lidman Decl., ¶ 37, Exh. 4.

D. Notice and Requested Settlement Administration Costs Are Fair and Reasonable

The parties agreed to engage Phoenix Settlement Administrators ("PSA") as the third-party settlement administrator. *See* Settlement, ¶ I.18. PSA shall be responsible for mailing the Notice of Settlement and calculating and distributing the settlement checks, among other duties. The Parties have designated \$2,500.00 as administration costs, which will cover the costs incurred by PSA in connection with the settlement. Settlement, ¶ III.4.c. The settlement administration bid provided by PSA is attached as Exhibit F to the Declaration of Jodey Lawrence on behalf of Phoenix Settlement Administrators in support of Motion for Approval of PAGA Settlement filed concurrently herewith ("Lawrence Decl.").

E. Plaintiff's Requested Enhancement Award is Fair, Adequate, and Reasonable

Courts routinely approve enhancement awards to compensate named Plaintiff for the services they provide and the risks they incur during class and representative litigation. *See, e.g., Bell v. Farmers Ins. Exch.*, 115 Cal.App.4th 715, 726 (2004) (upholding "service payments" to named Plaintiff for their efforts in bringing the case); *see also Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294 (N.D. Cal. 1995) (approving \$50,000 enhancement award); *See also Tate v. Kaiser, Alameda County Superior Court*, Case No. RG07318416 (order filed November 24, 2009)(awarding \$25,000); and *Hall v. O.C. Jones & Sons, Inc.*, San Francisco County Superior Court, Case No. CGC-12-523668 (order filed May 10, 2013) (awarding \$15,000).

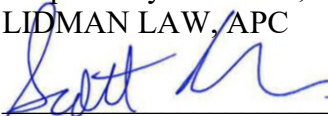
Here, pursuant to the Settlement, Plaintiff seeks an enhancement award of \$5,000.00. *See* Settlement, ¶ III.4.b. Plaintiff will request this amount in recognition of his unique contributions to

1 the prosecution of this case and his efforts in bringing this case to a successful and significant
2 resolution. *Id.*; Vasquez Decl., ¶¶ 3-10. This request is reasonable given Plaintiff's efforts in this case
3 and the risks he undertook on behalf of the Aggrieved Employees. Plaintiff provided substantial factual
4 information to Plaintiff's Counsel and attended numerous meetings with Plaintiff's Counsel, and
5 numerous hours expended by them assisting in the litigation of this action. Vasquez Decl., ¶¶ 3-9.
6 Further, Plaintiff put his future employment prospects at risk by becoming an aggrieved employee
7 representative, as the fact that they filed a lawsuit "is searchable on the internet and may become known
8 to prospective employers when evaluating" them for employment. *Guippone v. BH S&B Holdings,*
9 *LLC*, 2011 U.S., Dist. LEXIS 126026, *20 (S.D.N.Y. Oct. 28, 2011). Accordingly, Plaintiff's
10 enhancement award is appropriate and justified as part of the Settlement.

11 **IV. CONCLUSION**

12 For the reasons stated herein, this Court should grant Plaintiff's Motion in its entirety and adopt
13 the [Proposed] Order and Judgment Granting Plaintiff's Motion for Settlement Approval of Claims
14 Brought Under the Private Attorneys General Act and Reasonable Attorneys' Fees, Costs, and
15 Enhancement Award submitted concurrently herewith.

16
17 Dated: July 15, 2021

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19 By: 
20 Scott M. Lidman
21 Attorneys for Plaintiff
22 ADAN VASQUEZ
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