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Michael Stewart

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF EL DORADO

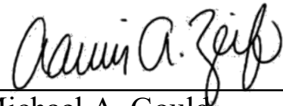
MICHAEL STEWART, an individual,	)	CASE NO.: PC20200472
	)	[Honorable Judge Dylan Sullivan in Dept 10]
	)	
Plaintiff,	)	PLAINTIFF'S NOTICE OF UNOPPOSED
	)	MOTION AND UNOPPOSED MOTION
	)	FOR APPROVAL OF PAGA
	)	SETTLEMENT; MEMORANDUM OF
v.	)	POINTS AND AUTHORITIES IN
	)	SUPPORT THEREOF; DECLARATION
	)	OF MICHAEL A. GOULD IN SUPPORT
	)	THEREOF; [PROPOSED] ORDER
	)	
SHINGLE SPRINGS NISSAN-SUBARU,	)	Date:
INC., and DOES 1 through 25,	)	Time:
	)	Dept: 10
	)	
	)	Complaint Filed: September 23, 2020
Defendants.	)	Trial Date: None Set
	)	Unlimited Civil

1 TO DEFENDANT, ITS ATTORNEY OF RECORD, AND THE COURT:

2 PLEASE TAKE NOTICE THAT on _____ at _____ or as soon
3 thereafter as counsel may be heard in Department 10 of the above-entitled Court located at 3321
4 Cameron Park Drive, El Dorado, Cameron Park, Ca 95682. Plaintiff Michael Stewart will and
5 hereby does move the Court to issue an Order granting approval of the Private Attorneys General
6 Act Settlement reached by the Parties pursuant to California Labor Code § 2699 et seq.

7 This Motion will be based on this Notice of Motion, the accompanying Memorandum of
8 Points and Authorities in Support Thereof; the Declaration of Aarin Zeif filed concurrently, the
9 Proposed Order filed concurrently, all papers on file with the Court in this matter, and upon such
10 other oral or documentary evidence that may be presented at the time of this Motion.

11
12
13 Dated: March 5, 2024

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15 Michael A. Gould
16 Aarin A. Zeif
17 THE GOULD LAW FIRM
18 Attorneys for Plaintiff
19 Michael Stewart
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Michael Stewart (“Stewart”) seeks approval of the Parties’ settlement under the California Labor Code Private Attorneys General Act, *California Labor Code* §§ 2698 *et Seq.* (“PAGA Settlement”). This is purely a PAGA action and the settlement reached by the Parties does not resolve any claims for wages owed nor release such claims, but only recovers penalties for aggrieved employees and the Labor Workforce Development Agency (“LWDA”) pursuant to PAGA. Therefore, aggrieved employees may still pursue individual lawsuits to recover unpaid wages owed if they so choose. Unlike class actions, PAGA actions are simply reviewed by the Court to ensure the settlement is genuine, meaningful, consistent with the underlying purpose of the statute to benefit the public. *O’Connor v. Uber Techs., Inc.* 201 F.Supp.3d 1110, 1133 (N.D.Cal. Aug. 18, 2016). See *Viceral v. Minstras Group, Inc.*, 2016 WL 5907869, *9 (N.D.Cal. Oct. 11, 2016); *Ferreri v. Bask Technology, Inc.*, 2016 WL 6833927, *5 (S.D. Cal. Nov 21, 2016). For the reasons set forth below, Stewart respectfully requests that the Court approve the PAGA Settlement and disbursements made in accordance with the PAGA Settlement.¹

II. SUMMARY OF LITIGATION

Shingle Springs owns and operates a Nissan-Subaru car dealership. Plaintiff Stewart worked as salesperson for Shingle Springs for approximately two (2) years. Stewart believes that he and other salespersons were not paid in accordance with California labor laws. For example, Stewart believes Shingle Springs did not pay overtime pay and/or straight time pay for all hours worked on a weekly basis, as required under the law. Stewart believes he and other salesperson were not paid for the time they spent performing non-sales duties/unproductive time. Stewart also believes he and other salespersons were not provided with a thirty (30) minute uninterrupted meal periods when they worked over five (5) hours. Stewart and salespersons also

¹ *California Labor Code* § 2699(1)(2) states, “[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part.” Moreover, a proposed settlement shall be submitted to the Labor Workforce Development Agency (“LWDA”) at the same time that the settlement of a PAGA claim is submitted to the court for approval. (*Id.*) Plaintiff has complied with this requirement and has submitted the proposed settlement to the LWDA. (See Gould Decl., ¶ 17 and POS) There are no set standards on how to seek approval of a PAGA settlement.

1 were not paid an extra twenty (20) minutes per day for their rest breaks. See *Vaquero v.*
2 *Stoneledge Furniture LLC* (2017) 9 Cal.App.5th 98.

3 Therefore, on or about June 9, 2020, Stewart gave written notice to the LWDA of Shingle
4 Springs' Labor Code violations, alleging that it had violated California Labor Code §§ 510,
5 1174, 1174.5, 201, 202, 203, 204, 210, 226, 226.3, 226.7, 512, 1197, failing to provide compliant
6 meal periods; failing to provide compliant rest breaks; failing to pay appropriate minimum and
7 overtime wages timely (Gould Decl., ¶ 7).

8 On September 23, 2020 Stewart initiated the instant action by preparing and filing his
9 complaint with a single cause of action under PAGA in El Dorado County Superior Court. (the
10 "Action"). (Gould Decl., ¶ 8). These claims were brought on behalf of current and former
11 salespersons employed by Shingle Springs from September 23, 2019 forward (the "Aggrieved
12 Employees").

13 The Parties engaged in much formal and informal discovery prior to resolving this
14 matter. Through formal discovery, Stewart obtained his payroll records, his employment records,
15 and Shingle Springs' written policies and practices. (Gould Decl., ¶ 9). Indeed, the Parties
16 engaged in several rounds of discovery and meet and confer efforts regarding aggrieved
17 employee payroll data and contact information. (Gould Decl., ¶ 9). Informally, Shingle Springs
18 also the total number of pay periods. (Gould Decl., ¶ 9.) The information provided by Shingle
19 Springs was thoroughly analyzed by Counsel in order to assess the claims and to formulate
20 damage models for settlement purposes. (Gould Decl., ¶ 9.). Thereafter, the Parties engaged in
21 back and forth settlement discussions and ultimately resolved the matter. The Parties respectfully
22 request that the Court approve the PAGA settlement.

23 **III. SUMMARY OF THE SETTLEMENT**

24 The terms of the Settlement were subsequently memorialized by the Parties in the Joint
25 Stipulation for Settlement and Release of Private Attorneys General Act Representative Action.
26 ("Settlement Agreement"). Gould Decl., ¶ 9, Exhibit No. 1.

27 **A. TOTAL PAGA SETTLEMENT PAYMENT**

28 Under the terms of settlement, Shingle Springs will pay a total of \$40,000.00 as the Gross
Settlement Fund to resolve the PAGA Released Claims. The entire settlement will be paid out to

aggrieved employees and the LWDA for PAGA civil penalties, a service award/general release payment to Stewart, attorneys' fees, litigation costs, and settlement administration costs. The LWDA will receive 75% of the PAGA Settlement Fund (after fees, costs, and services awards are deducted). The aggrieved employees will receive 25% of the PAGA Settlement Fund based upon aggrieved employees' proportionate share of pay periods.

B. CALCULATION OF THE SETTLEMENT PAYMENTS TO AGGRIEVED EMPLOYEES

The Aggrieved Employees are defined as all salespersons who worked for Shingle Springs during all or part of the PAGA Period. Under the terms of the settlement, the Settlement Administrator will calculate and issue payments to Aggrieved Employees. Each Settlement Payment will be calculated on a pro rata basis based on the number of payroll periods each Aggrieved Employee worked during the Release Period. The payments issued to Aggrieved Employees are considered civil penalties. Payroll tax withholdings and deductions will not be withheld from these payments and each payment to Aggrieved Employees will be reported on an IRS 1099 Form.

C. FUNDING AND DISBURSEMENT

Within twenty-one (21) calendar days following the Effective Date, Shingle Springs shall pay the Gross Settlement Fund to the Claims Administrator for distribution to the Aggrieved Employees, Aggrieved Employees' Counsel's fees and costs, Claim Administrator's fees and/or costs, and payment to the LWDA under PAGA. Within thirty (30) days following the Effective Date, the Settlement Administrator shall pay: (1) the LWDA an amount equivalent to the seventy-five percent (75%) of the PAGA Fund; and (2) distribute to Aggrieved Employees their individual portion of the PAGA Fund. Each Aggrieved Employee will receive a "Settlement Notice" (Gould Decl., ¶ 9, Exhibit B to the Settlement Agreement (Exhibit No. 1) accompanied with their Settlement Payment, explaining that the Settlement Payment is in consideration of the release and waiver of all of the PAGA claims related to those alleged in this Action.

D. ATTORNEYS' FEES AND COSTS

The PAGA Settlement provides for an award of attorneys' fees to Aggrieved Employees' Counsel, The Gould Law Firm, in an amount of thirty percent (30%) of the Gross Settlement

1 Fund as well as an award for actual costs and expenses, all of which shall be paid from the Gross
2 Settlement Fund.

3 **E. PAGA SERVICE AWARD**

4 The Settlement Agreement permits Stewart to apply for a PAGA Service Award Payment
5 and payment for his general release not to exceed \$7,500.00 in consideration for initiating and
6 prosecuting this action, work performed, and risks undertaken for the payment of attorney's fees
7 and costs in the event they had been unsuccessful in the matter, and for agreeing to a general
8 release of claims.

9 **F. UNCASHED OR UNDELIVERABLE CHECKS**

10 Aggrieved Employees have One Hundred and Eighty (180) days from the date of mailing
11 to cash their checks. Any monies remaining in the distribution account shall be distributed to the
12 State Controller of California, Unclaimed Property. The structure of the PAGA Settlement
13 provides no reversion of any of the Gross Settlement Fund to Shingle Springs.

14 **G. RELEASE OF CLAIMS**

15 The PAGA Settlement provides for a limited release by Aggrieved Employees of only
16 actions, causes of action, suits, liabilities, claims, and demands against Shingle Springs, *under*
17 *PAGA for civil penalties only*, which are set forth in the operative Complaint or could have been
18 raised in the operative Complaint based upon the facts set forth therein. Therefore, no
19 underlying wage and hour claims will be released in this settlement thereby permitting aggrieved
20 employees to pursue those claims if they so choose.

21 **IV. PAGA SETTLEMENT APPROVAL STANDARD**

22 *California Labor Code* § 2699(l)(2) requires that the Court review and approve any
23 settlement of any civil action filed pursuant to PAGA. The PAGA statute does not specify a
24 standard of review for PAGA settlements nor is there published appellate authority establishing
25 such standard. However, as explained by the California Supreme Court, approval of a PAGA
26 action is much different than the Court's approval of a class action as there is no two-step
27 preliminary and then final approval process. *Arias v. Superior Court* (2009) 46 Cal.4th 969.

28 In evaluating the adequacy of the settlement amount, a court is not concerned with the
amount the aggrieved employees are to receive, but rather, a court must focus on the total

1 settlement amount in achieving PAGA’s objective. PAGA was passed because the Legislature
2 believed it was necessary “to achieve maximum compliance with state labor laws” and “to
3 ensure an effective disincentive for employers to engage in unlawful and anticompetitive
4 business practices.” 2003 Cal.Legis.Serv.Ch. 906 § 1(a). The Legislature further found that,
5 while self-policing efforts have had some success, “in other cases the only meaningful deterrent
6 to unlawful conduct is the vigorous assessment and collection of civil penalties as provided in
7 the Labor Code.” *Id.* at § 1(b). Through PAGA, the Legislature thus: (1) sought to “enlist willing
8 citizens in the task of private enforcement,” *Iskanian v. CLS Transportation*, 59 Cal.4th at 348,
9 390 (2014); (2) “deputized” aggrieved employees to sue on behalf of the State to enforce state
10 labor laws; and (3) authorized them to recover civil penalties, attorneys’ fees, and costs. 2003
11 Cal. Legis Serv. Ch. 906. In bringing a PAGA action, “[t]he employee-plaintiff acts as the proxy
12 or agent of the state labor enforcement agencies, representing the same legal right and interest as
13 those agencies. *Iskanian*, 59 Cal.4th at 394. As for the interests of the LWDA, its top
14 enforcement priorities are “to vigorously enforce minimum labor standards in order to ensure
15 employers are not required or permitted to work under substandard unlawful conditions . . .” and
16 to “protect employers who comply with the law from those who attempt to gain a competitive
17 advantage at the expense of their workers by failing to comply with minimum labor standards.”
18 *California Labor Code* § 90.5(a).

19 Indeed, “[t]he remedy sought in a PAGA suit consists of civil penalties, not individual or
20 class damages.” *Mendez v. Tween Brands, Inc.*, 2010 WL 2650571 *4 (E.D. Cal. July 1, 2010).
21 “Unlike class actions, these civil penalties are not meant to compensate unnamed employees
22 because the action is fundamentally a law enforcement action.” *Ochoa-Hernandez v. Cjaders*
23 *Foods, Inc.*, 2010 WL 1340777 *4, (N.D. Cal. April 2, 2010). Moreover, a court must not lose
24 sight of the fact that “[u]nlike a class action seeking damages or injunctive relief for injured
25 employees, the purpose of PAGA is to incentivize private parties to recover civil penalties for
26 the government that otherwise may not have been assessed and collected by overburdened state
27 enforcement agencies.” *Id.* As with any settlement, a court must be mindful in conducting its
28 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 U.S.

1 Dist. LEXIS 103222, *24 (N.D. Cal. Sept. 12, 2011). Indeed, “the very essence of a settlement is
2 ... ‘a yielding of absolutes and an abandoning of highest hopes’ ” *Officers for Justice v. Civil*
3 *Service Com.*, 688 F.2d 615, 624 (9th Cir. 1982), as “it is the very uncertainty of outcome in
4 litigation and avoidance of wasteful and expensive litigation that induce consensual settlements.”
5 *Id.* at 625.

6 Moreover, in analyzing PAGA settlements, it is important that the relief provided for
7 under the PAGA be genuine and meaningful, consistent with the underlying purpose of the
8 statute to benefit the public. *O’Connor v. Uber Techs., Inc.* 201 F.Supp.3d 1110, 1133 (N.D.Cal.
9 Aug. 18, 2016). See *Viceral v. Minstras Group, Inc.*, 2016 WL 5907869, *9 (N.D.Cal. Oct. 11,
10 2016); *Ferreri v. Bask Technology, Inc.*, 2016 WL 6833927, *5 (S.D. Cal. Nov 21, 2016). Since
11 PAGA has been labeled a type of *qui tam* type of action, (see *Iskanian v. CLS Transportation*, 59
12 Cal.4th at 394) the settlement should take into account “the best interests of the parties involved
13 and the public purposes behind the action”(see *California Government Code* § 12652(c)(1)
14 (relating to the court’s approval of a dismissal under the California False Claims Act, a *qui tam*
15 action)) and are “just” and “serve the public interest.” (See *Consumer Advocacy Group, Inc. v.*
16 *Kintetsu Enterprises of America*, 141 Cal.App.4th 46, 63 (2006) (relating to approval of
17 Proposition 65 settlements, an action brought by private plaintiffs to safeguard public rights).)
18 The Parties believe that this settlement meets the legal criteria for approval.

19 **V. THE PAGA SETTLEMENT IS CONSISTENT WITH PAGA’S OBJECTIVE AND**
20 **IS JUST AND SERVES THE PUBLIC INTEREST**

21 Under the Parties’ PAGA Settlement, Shingle Springs will pay a total of \$40,000, for
22 alleged PAGA violations. The proposed settlement certainly advances PAGA’s purpose by
23 addressing Plaintiff’s allegations of non-compliance with the Labor Code and encouraging
24 compliance with the Labor Code in the future. The proposed settlement also serves PAGA’s
25 purpose of encouraging private enforcement of PAGA by obtaining penalties for Aggrieved
26 Employees and the State. The Net Settlement Value will be distributed to Aggrieved Employees
27 and the LWDA. Consistent with PAGA’s directive, the penalties will be distributed as follows:
28 25% to the aggrieved employees and 75% to the LWDA. See *Labor Code* § 2699(i).

Moreover, in exploring the settlement of any PAGA action, the critical fact that Courts have broad discretion in approving PAGA penalties must be heavily taken into consideration. *California Labor Code* § 2699(e)(2) states, “[i]n any action by an aggrieved employee seeking recovery of a civil penalty . . . a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” See, e.g., *Thurman v. Bayshore Transit Management, Inc.*, 203 Cal.App.4th 1112, 1135-36 (2012) (reducing PAGA penalties by 30%); see also *Fleming v. Covidien Inc.*, No. (OPX), 2011 WL 7563047, at *4 (C.D. Cal. Aug. 12, 2011) (reducing \$2.8 million penalty to \$500,000); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018) (affirming PAGA civil penalty of just \$5 per pay period where employer made “good faith attempts” to comply with the law). Thus, there is no set amount Courts must levy on an employer it finds to have violated the law. This discretion and how a particular court will exercise it is always an unknown variable in predicting the dollar outcome of any PAGA action. Under its wide discretion to award lesser amounts, a Court could rule in favor of a PAGA Plaintiff’s claims and find that Labor Code statutes were violated but decide to substantially moderate the imposition of PAGA penalties for those violations. It is for these reasons that, in assessing and judging the reasonableness of PAGA settlements, the touchstone feature is the “remedial purpose” achieved by the settlement amount, which takes into account the employer’s good faith belief that it complied with the laws claimed to be violated. *Bernstein v. Virgin America, Inc.*, 365 F.Supp.3d 980, 991 (N.D. Cal. 2019).

Courts have used this discretion to massively discount PAGA penalties imposed where it found the employer took its Labor Code obligations seriously, even if the employer fell short of complying with them. See *Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (affirming reduction of PAGA penalties); *Fleming v. Covidien Inc.*, 2011 WL 7563047, at *4 (C.D. Cal. 2011) (reducing PAGA penalties from \$2.8 million to \$500,000); *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504, 529 (2018) (affirming PAGA civil penalty of just \$5 per pay period where employer made “good faith attempts” to comply with the law).

Moreover, the payment of PAGA Penalties under the Parties' Settlement is consistent with PAGA settlements in other cases. In *Nordstrom v. Commission Cases*, 186 Cal.App.4th 576, 589 (2010), the Court held that the Trial Court did not abuse its discretion in approving a wage and hour settlement that involved PAGA penalties even though no settlement money was allocated to the PAGA, and, therefore, no portion of the settlement was paid to the LWDA. See *Navarro v. Ordaz Cultured Marble & Onyx, Inc.*, 2015 U.S. Dist. LEXIS 21374, *2-3 (N.D. Cal. 2015) (wherein the Court approved a \$20,000 PAGA Settlement); *Franco v. Ruiz Food Prods., Inc.*, 2012 U.S. Dist. LEXIS 169057, *14 (E.D. Cal. 2012) (approving a settlement of PAGA penalties of \$10,000 for 2,055 employees for wage and hour violations); *Garcia v. Gordon Trucking*, 2012 U.S. Dist. LEXIS 160052, *3 (E.D. Cal. 2012) (approving a settlement of PAGA penalties of \$10,000 for 1,868 employees for wage and hour violations); *Chu v. Wells Fargo Investments, LLC*, 2011 U.S. Dist. LEXIS 15821, *1 (N.D. Cal. 2011) (approving a settlement of PAGA penalties of \$7,500 for 2,752 employees for wage and hour violations). As such, Stewart believes the PAGA Settlement achieved is meaningful, provides a genuine public policy benefit, and is just and in the public interest. Thus, Stewart respectfully requests that the Court to grant approval of the PAGA Settlement.

VI. PLAINTIFF'S COUNSEL REQUESTS THAT THE COURT APPROVE THE REQUESTED ATTORNEYS' FEES

Plaintiff's Counsel seek an award for attorneys' fees in the amount of Twelve Thousand Dollars (\$12,000.00). An employee who prevails in a PAGA action shall be entitled to an award of reasonable attorney fees and costs. *Cal. Lab. Code* § 2699(g)(1). The PAGA statute provides for approval of the settlement but does not specifically provide that the amount or reasonableness of attorneys' fees and costs is subject to court approval. *California Labor Code* §§ 2699(g)(1) and (l)(2). A reasonable interpretation of the PAGA is that the amount of attorneys' fees need only be addressed by a court when the LWDA objects because there is no need to provide absent employees' due process rights in a PAGA settlement since the aggrieved employees do not have their own substantive rights. See *Sakkab v. Luxottica Retail North America, Inc.*, 803 F.3d 425, 436 (9th Cir. 2015). Moreover, the LWDA, as the real party in interest and the primary beneficiary of the settlement, has an opportunity to review the

1 settlement before it is approved. *California Labor Code* § 2699(1)(2). Unlike a class action,
2 where the purpose of court approval is to protect absent class members, in a PAGA settlement
3 the real party in interest, the LWDA, has the opportunity to review and consider the
4 reasonableness of the fees and object before the court hears the approval motion. Counsel
5 request that the Court approve \$12,000 in attorney's fees, as agreed to under the settlement.

6 **VII. PLAINTIFF REQUESTS THAT THE COURT APPROVE THE REQUESTED**
LITIGATION COSTS

7 Plaintiff's Counsel respectfully request reimbursement of \$1,994.57 which is the out-of-
8 pocket costs incurred to date in litigating the claims in this matter (Gould Decl., ¶15, Ex. 2).
9 These costs were reasonable and necessary to the successful prosecution of this case and should
10 be reimbursed. *Id.*; Fed. R. Civ. P. 23(h); *see also Covillo v. Specialtys Cafe*, 2014 WL 954516,
11 at * 7 (N.D. Cal. March 6, 2014) ("Class counsel is also entitled to reimbursement of reasonable
12 expenses.") (citing *Van Vranken*, 901 F.Supp. at 299 (approving reasonable costs in class action
13 settlement)). Courts in the Ninth Circuit regularly reimburse class counsel for their litigation
14 costs incurred in prosecuting the litigation—and do so in addition to the attorneys' fees awarded
15 in the case. *See, e.g., Ruch v. AM Retail Grp.*, 2016 WL 5462451, *12 (N.D. Cal. 2016
16 (awarding \$18,211 costs in addition to fees); *Ching v. Siemens Indus., Inc.*, 2014 WL 2926210,
17 *9 (N.D. Cal. 2014 (awarding \$9,000 in costs in addition to fees); *In re M.D.C. Holdings Sec.*
18 *Litig.*, 1990 WL 454747, *7 (S.D. Cal. 1990) (\$714,826.19 in costs awarded in addition to fees).

19 **VIII. PLAINTIFF SHOULD BE AWARDED THE REQUESTED ENHANCEMENT**
PAYMENT FOR HIS WORK ON BEHALF OF THE AGGRIEVED
EMPLOYEES AND THE STATE OF CALIFORNIA

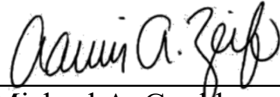
20 The PAGA Settlement allows for an Enhancement Award of up to \$7,500 for Plaintiff
21 Michael Stewart, subject to Court approval. This payment is intended to be in recognition for
22 the services Plaintiff performed on behalf of Aggrieved Employees and the State. The award
23 requested here is merited given Plaintiff's participation in and commitment to the litigation.
24 Plaintiff spent time over the last three years working with Counsel from the outset of the case
25 until the present—including time spent assisting Counsel with discovery, settlement, reviewing
26 the documents, and regularly speaking by phone (and communicating by email) with Counsel
27 throughout the litigation. (Gould Decl., ¶ 17).

1 The requested \$7,500.00 award to Plaintiff also serves PAGA’s purpose of encouraging
2 private enforcement of PAGA by obtaining penalties for allegedly aggrieved employees and the
3 state. In *Garner v. State Farm Mut. Auto. Ins.*, 2010 WL 1687832 (N.D. Cal. 2010), Hon.
4 Claudia Wilken awarded a class representative a \$20,000 incentive payment, noting that
5 “Numerous courts in the Ninth Circuit and elsewhere have approved incentive awards of
6 \$20,000 or more where . . . the class representative has demonstrated a strong commitment to the
7 class.” *Id.* at *17 n.8 (citing cases). See also *Cellphone Termination Fee Cases*, 186 Cal. App.
8 4th 1380, 1393 (2010). Plaintiff Stewart has “demonstrated a strong commitment to the
9 [Aggrieved Employees].” *Id.* Plaintiff has been involved in this litigation from commencement
10 of the action over two years ago. At all times, Plaintiff has endeavored to fairly represent the
11 interests of his fellow employees and the State, and always made decisions with the best interests
12 of the Aggrieved Employees and the State in mind. (Gould Decl., ¶ 16). Moreover, here,
13 Plaintiff put his name forward on the public record at the risk of possible future adverse
14 employment consequences by future or potential employers who might not choose to hire him
15 because he took the lead in this lawsuit. This is a significant risk that Stewart has borne for the
16 Aggrieved Employees who have reaped the benefits of this case without having to face these
17 risks personally. Further, Plaintiff ran the risk of losing and being liable for Defendant’s
18 attorney’s costs if he was not successful. Additionally, as part of the settlement, Stewart agreed
19 to a general release of claims containing a release under *California Civil Code* § 1542. In light
20 of the time, effort, costs, and risks that Plaintiff undertook to litigate the action to a successful
21 resolution, the requested enhancement payment of \$7,500 is warranted.

22 **IX. CONCLUSION**

23 Based on the foregoing reasons, Plaintiff Stewart requests that the Court grant this
24 motion in its entirety and issue an order granting approval of the PAGA Settlement as agreed by
25 the Parties.

26 Dated: March 5, 2024



Michael A. Gould
Aarin A. Zeif
THE GOULD LAW FIRM
Attorneys for Plaintiff
Michael Stewart