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Attorneys for Plaintiff and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO

DON SARUBBI, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

TECH MAHINDRA (AMERICAS) INC., a
New Jersey corporation; TECH
MAHINDRA NETWORK SERVICES
INTERNATIONAL, INC., a Delaware
corporation; TECH MAHINDRA
TECHNOLOGIES INC., a Delaware
corporation; TECH MAHINDRA
NETWORK SERVICES, a business
organization, form unknown; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 20-CIV-03616

(Assigned to the Hon. Gerald J. Buchwald, Dept. 10)

**JOINT STIPULATION FOR APPROVAL OF
PRIVATE ATTORNEY GENERAL ACT
(LABOR CODE § 2698 ET SEQ.)
SETTLEMENT AGREEMENT AND RELEASE**

**[PROPOSED] JUDGMENT FILED
CONCURRENTLY HEREWITH**

Complaint Filed: August 26, 2020

1 **I. INTRODUCTION**

2 This lawsuit is premised upon Defendant Tech Mahindra (Americas) Inc.’s (“TMA”),
3 Defendant Tech Mahindra Technologies Inc.’s (“TMT”), and Defendant Tech Mahindra Network
4 Services International, Inc.’s (“TMNSI”) (erroneously sued as Tech Mahindra Network Services)
5 (collectively, “Defendants”) alleged violation of California Labor Code § 2698 *et seq.*, the Private
6 Attorneys General Act of 2004 (“PAGA”). Specifically, Plaintiff Don Sarubbi (“Plaintiff”)
7 alleged that Defendants failed to comply with Labor Code section 201.3 by failing to pay
8 temporary services employees on a weekly basis and, in the alternative, failed to comply with
9 Labor Code section 204 by paying wages to employees beyond the time limits set forth therein.
10 Based thereon, Plaintiff sought civil penalties under PAGA on behalf of the State of California and
11 other aggrieved employees. Defendants deny any and all claims alleged by Plaintiff and deny all
12 wrongdoing whatsoever.

13 As will be explained in further detail below, based on the California Supreme Court’s
14 opinion in *Arias v. Superior Court* (2009) 46 Cal. 4th 969 and *Iskanian v. CLS Transportation Los*
15 *Angeles, LLC* (2014) 59 Cal. 4th 348, Plaintiff contends that he can seek civil penalties as called
16 for under PAGA on behalf of the State of California and other similarly situated aggrieved
17 employees without seeking class certification or meeting any of the requirements of class
18 certification—i.e., numerosity, typicality, commonality and adequacy. As such, while the PAGA
19 penalties settlement reached herein is on behalf of the State of California and other purportedly
20 aggrieved employees, the usual two-step preliminary and final approval process is not required.
21 Rather, court approval of PAGA settlements is governed by Labor Code § 2699, subdivision (1),
22 which provides that the only requirement for approval is an approval by this Court of the amount
23 of penalties the Parties have agreed to settle for.

24 The Parties have reached a PAGA settlement, the terms of which are outlined in the
25 Stipulation of Settlement (the “Settlement Agreement”). The Parties now seek this Court’s
26 signature ordering approval of the settlement and dismissal of this lawsuit with prejudice. Nothing
27 contained herein constitutes a concession or admission and shall not be used against Defendants as
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1 an admission or indication with respect to any claim of any fault, concession, or omission by
2 Defendants.

3 **II. STATEMENT OF FACTS**

4 On or about July 1, 2020, Plaintiff submitted his written notice under Labor Code § 2699.3
5 (the “PAGA Notice”) to the California Labor & Workforce Development Agency (“LWDA”) and
6 Defendants. (Declaration of Mai Tulyathan (“Tulyathan Decl.”) at ¶ 2.) As set forth in the PAGA
7 Notice, Plaintiff alleged that Defendants failed to pay earned wages in a timely manner in violation
8 of Labor Code § 204, and, in the alternative, failed to pay wages to purported temporary services
9 employees on a weekly basis in violation of Labor Code § 201.3. (*Id.*)

10 On August 26, 2020, Plaintiff filed a representative PAGA action Complaint against
11 Defendants in the Superior Court of California, County of San Mateo, alleging a single cause of
12 action for violation of Labor Code § 2698, *et seq.*, predicated on the violations of Labor Code §§
13 201.3 and 204 (the “Action”). (*Id.* at ¶ 3.) On October 5, 2020, TMA, TMT and TMNSI filed their
14 respective Answers to the Complaint, wherein Defendants denied all material allegations of the
15 Complaint and set forth their respective affirmative defenses. (*Id.* at ¶ 4.)

16 Thereafter, the Parties engaged in formal discovery. On January 11, 2021, Plaintiff
17 propounded a series of written discovery requests to Defendants. (Tulyathan Decl. at ¶ 5.) On
18 March 19, 2021, Defendants served its discovery responses and documents, including Plaintiff’s
19 personnel file and Defendants’ policies. (*Id.*) The Parties subsequently met and conferred
20 regarding the possibility of informal dispute resolution. (*Id.* at ¶ 6.)

21 In connection with the Parties’ dispute resolution discussions, Defendants provided
22 Plaintiff with information to allow Plaintiff to conduct liability and exposure analysis. (*Id.*) As
23 part of the dispute resolution discussions, Defendants have also indicated that Plaintiff and the
24 purported aggrieved employees were employed by TMNSI, and not by TMA and TMT.
25 Furthermore, Defendants have indicated TMA and TMT do not utilize the same payroll schedule
26 and/or operate under the same payroll policies as TMNSI. (*Id.* at ¶ 7) In light of those defenses,
27 Defendants provided the number of purported aggrieved employees of TMNSI and the number of
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1 pay periods worked by purported aggrieved employees of TMNSI during the PAGA period as
2 alleged in the lawsuit. (*Id.*) The data allowed Plaintiff's counsel to perform a comprehensive
3 damages analysis. (Tulyathan Decl. at ¶ 8.)

4 Following arm's-length negotiations and discussions between the Parties, during which the
5 Parties spoke at length about the strengths and weaknesses of each side's claims and defenses, and
6 the scope of Defendants' purported liability, the Parties were able to reach an agreement in
7 principle. (Tulyathan Decl. at ¶ 9.) The Parties then finalized the settlement terms in the
8 concurrently filed Settlement Agreement. (*Id.*) The settlement is the result of informed and
9 non-collusive arm's length negotiations.

10 Based on the above, and as further detailed below, Plaintiff and Defendants jointly request
11 that this Court grant approval of the PAGA settlement pursuant to Labor Code § 2699, subdivision
12 (1).

13 **III. PAGA REQUIREMENTS**

14 Prior to the enactment of PAGA, many of the civil penalties provided against employers
15 for violations of certain Labor Code provisions were solely within the province of the California
16 Department of Labor to seek, enforce and assess. (*Arias v. Superior Court* (2009) 46 Cal.4th 969,
17 980.) However, due to the lack of financing to California's agencies, the California Legislature
18 found that it was in the public interest to allow aggrieved employees to act as private attorneys
19 general, and to enforce and recover civil penalties on behalf of other similarly situated aggrieved
20 employees for Labor Code violations committed by their employers. (*Id.*) As such, PAGA was
21 enacted to allow such enforcement and recovery by private individuals who have been aggrieved
22 by their employers. Moreover, 75% of any penalties recovered under PAGA by an aggrieved
23 employee is to be paid to California's LWDA, and the remaining 25% is to be shared amongst the
24 aggrieved employees for collecting penalties on behalf of the State. (Cal. Lab. Code § 2699, subd.
25 (i).)

26 In order to enforce and seek penalties under PAGA in a civil action, an aggrieved employee
27 must first provide written notice to the LWDA and the employer of the particular Labor Code
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1 violation the aggrieved employee alleges the employer has violated. (See Cal. Labor Code §
2 2699.3, subd. (a)(1).) Once the LWDA notifies the aggrieved employee that it does not intend to
3 investigate the alleged violations, or fails to respond to the written notice within the time period
4 specified in the PAGA statute, the aggrieved employee is then allowed to proceed in a civil action
5 against the employer on the alleged violations on behalf of all other similarly situated employees.
6 (See Cal. Labor Code § 2699.3, subd. (a)(2)(A).)

7 In 2009, the California Supreme Court considered the issue of whether an aggrieved
8 employee that brings a PAGA claim on behalf of himself and others similarly situated needs to
9 seek the PAGA claim as a class action and meet class certification requirements. (*Arias*, 46 Cal.
10 4th at p. 976.) After substantial review of the legislative history of PAGA, the California Supreme
11 Court held that an aggrieved employee's representative action brought on behalf of other similarly
12 situated employees against an employer for PAGA violations do **not** need to meet the requirements
13 for class certification. (*Id.* at pp. 975, 980-88.) As the California Supreme Court held, a plaintiff
14 bringing suit under PAGA does so as the proxy or agent of California's labor law enforcement
15 agencies. (*Id.* at p. 986.) ***Because an employee's PAGA action functions as a substitute for an***
16 ***action brought by the government itself, a judgment in the PAGA action binds all those, who***
17 ***would be bound by a judgment in an action brought by the government.*** (*Id.* (emphasis added).)

18 Finally, court approval of PAGA settlements is governed by section 2699(1) of the Labor
19 Code, which provides, in relevant part: "The court shall review and approve any penalties sought
20 as part of a proposed settlement agreement pursuant to this part." (Cal. Lab. Code § 2699, subd.
21 (1).) The Parties are not obligated to "satisfy class action requirements," including the standards
22 for class action settlement approval. (*Arias*, 46 Cal. 4th at pp. 980-988 (affirming lower court's
23 holding that "plaintiff need not satisfy class action requirements" to assert a PAGA claim).)

24 As the Parties to this current PAGA action have reached such an agreement, the Parties
25 now seek this Court's approval as to the settlement of the penalties amount.

26 **IV. RELEVANT SETTLEMENT TERMS**

27 As noted above, this Court is only required to approve the actual penalties being settled as
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1 part of the current PAGA settlement. The following section details the amount of PAGA penalties
2 to be paid, how such payments will be distributed and to whom, and what claims such payments
3 will release.

4 The Parties have agreed that a total of \$44,100.00 (“Total Settlement Amount”) shall be
5 paid by Defendant for the release of PAGA claims in this lawsuit by the PAGA aggrieved
6 employees. (Tulyathan Decl. at ¶ 10.) This amount includes the following:

- 7 • The settlement administration costs of \$450.00 to Atticus, the third-party
8 Settlement Administrator to be retained by the Parties for issuing settlement
9 payments to PAGA aggrieved employees along with an accompanying
10 Notice, (Settlement Agreement ¶ 6; Tulyathan Decl. at ¶ 10);
- 11 • Plaintiff’s Counsel’s fees of up to \$16,150.00, and actual litigation costs of
12 \$2,110.16 (Settlement Agreement ¶ 4; Tulyathan Decl. at ¶¶ 10, 24, Ex. D);
13 and
- 14 • An enhancement payment of \$5,000.00 to Plaintiff, in recognition for his
15 efforts in obtaining the benefits of the settlement on behalf of other
16 aggrieved employees and for Plaintiff’s general release of his claims against
17 Defendants (Settlement Agreement ¶ 5).

18 After subtraction of the settlement administration costs, Plaintiff’s attorneys’ fees and
19 costs, Plaintiff’s enhancement award, the remaining amount of \$20,389.84, or the Net Settlement
20 Amount, will be distributed in accordance with PAGA’s requirements. (Tulyathan Decl. at ¶ 11.)
21 Seventy-five percent of the Net Settlement Amount, or approximately \$15,292.38, will be paid to
22 the LWDA for PAGA penalties. (*Id.* ¶ 7.a.; Tulyathan Decl. at ¶ 11.) The remaining twenty-five
23 percent, or approximately \$5,097.46, will be distributed to the purported aggrieved employees.
24 (Settlement Agreement ¶ 7.b., Tulyathan Decl. at ¶ 11.)

25 For purposes of this settlement, the purported aggrieved employees affected by this
26 Settlement, or PAGA Settlement Group Members, are defined as “all current and former
27 employees of TMNSI in California at any time during the period from April 6, 2019, to August 15,
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2020.” (Settlement Agreement ¶ 9.) The Covered Period in this matter runs from April 6, 2019, to August 15, 2020. (*Id.*) Based upon Defendants’ records, there are seven (7) PAGA Settlement Group Members during the Covered Period. (*Id.*)

The portion of the Net Settlement Amount distributed to PAGA Settlement Group Members will be distributed on a *pro rata* basis, based on the number of pay periods each individual PAGA Settlement Group Member was paid wages during the Covered Period. (Settlement Agreement ¶ 10.) The number of pay periods in which PAGA Settlement Group Members were paid wages by TMNSI during the Covered Period is 128 pay periods. (*Id.*) Based on the number of PAGA Settlement Group Members, employees will be entitled to recover, on average, approximately **\$728.21** each. (Tulyathan Decl. at ¶ 13.) The amount any particular PAGA Settlement Group Member will be entitled to recover will be greater or lower than this average depending on the number of pay periods during which he or she was paid wages. (*Id.*) This is fair, as it directly allocates greater penalties to individual PAGA Settlement Group Members who have allegedly suffered greater harm. (*Id.*)

In exchange for such payments, Plaintiff, the PAGA Settlement Group Members, and the State of California will release Defendants from the following release:

any and all claims for penalties under PAGA, arising during the Covered Period, based on the facts alleged or that could have been alleged in the Action and Plaintiff’s notice letter to the LWDA including, but not limited to, Labor Code sections 201.3 and 204, and the applicable IWC Wage Orders, and any resulting claim for attorneys’ fees and costs under PAGA (the “Released Claims”).

(*Id.* ¶ 14.) This release is appropriately tailored as it only releases claims for civil penalties under PAGA arising out of the facts alleged or could have been alleged in this lawsuit, and does not release any other claims. (Tulyathan Decl. at ¶ 14.) Further, none of the PAGA Settlement Group Members are bound by any general release under C.C.P. § 1542 as part of this settlement. (*Id.*)

As part of the Settlement Agreement, Defendants also do not object to Plaintiff’s Counsel’s request for attorneys’ fees of \$16,150.00, which is approximately 36.6 percent of Total Settlement Amount. (Settlement Agreement ¶ 4.) While the Settlement Agreement provides of

1 reimbursement of documented litigation costs of up to \$5,000.00, Plaintiff's Counsel is only
2 requesting for reimbursement of \$2,110.16 in actual litigation costs. (*Id.*; Tulyathan Decl. at ¶ 24,
3 Ex. D.) Also, as part of the Settlement Agreement, Defendants do not object to Plaintiff's request
4 for a Service Award of \$5,000.00, in recognition for Plaintiff's efforts in obtaining the benefits of
5 the settlement on behalf of other purported aggrieved employees and for Plaintiff's general release
6 of his claims against Defendants. (*Id.* ¶ 5.)

7 **V. PLAINTIFF'S CONTENTIONS REGARDING FEES AND COSTS**

8 **a. THE ATTORNEYS' FEES ARE REASONABLE.**

9 PAGA allows a prevailing plaintiff to obtain attorneys' fees and costs. (Cal. Lab. Code §
10 2699, subd. (g).) Similar to awarding fees in a class action, California state and federal courts have
11 recognized that an appropriate method for determining award of attorneys' fees for representative
12 actions is to use a percentage of the total value of benefits to class members by the settlement.
13 (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 254; *Serrano v. Priest* (1977) 20
14 Cal. 3d 25, 34 ("*Serrano III*"); *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478; *Vincent v.*
15 *Hughes Air West, Inc.* (9th Cir. 1997) 557 F. 2d 759, 769.) The purpose of this equitable doctrine
16 is to avoid unjust enrichment of counsel and to "spread litigation costs proportionally among all
17 the beneficiaries so that the active beneficiary does not bear the entire burden alone." (*Vincent*,
18 557 F. 2d at p. 769.)

19 The Common Fund doctrine is predicated on the principle of preventing unjust enrichment.
20 When a litigant's efforts create or preserve a fund from which others derive benefits, he may
21 require the passive beneficiaries to compensate those who created the fund. Both California state
22 and federal courts have embraced this doctrine. (*Serrano III*, 20 Cal. 3d at p. 35; *Vincent*, 557 F.2d
23 at p. 769.) Similarly, in *City and County of San Francisco v. Sweet* (1995) 12 Cal. 4th 105, 110,
24 the California Supreme Court recognized that the common fund doctrine has been applied
25 "consistently in California when an action brought by one party creates a fund in which other
26 persons are entitled to share." The reasons for applying the common fund doctrine include:
27 "fairness to the successful litigant, who might otherwise receive no benefit because his recovery
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1 might be consumed by the expenses; correlative prevention of an unfair advantage to the others
2 who are entitled to share in the fund and who should bear their share of the burden of its recovery;
3 encouragement of the attorney for the successful litigant who will be more willing to undertake
4 and diligently prosecute proper litigation for the protection or recovery of the fund if he is assured
5 that he will be properly and directly compensated should his efforts be successful.” (*Id.*)

6 Indeed, most recently, the California Supreme Court has also held that the award of
7 attorneys’ fees in common fund wage and hour class action settlements should start with the
8 percentage method. (*See Laffitte v. Robert Half Int’l* (2016) 1 Cal. 5th 480, 503 (“We join the
9 overwhelming majority of federal and state courts in holding that when class action litigation
10 establishes a monetary fund for the benefit of the class members, and the trial court in its equitable
11 powers awards class counsel a fee out of that fund, the court may determine the amount of a
12 reasonable fee by choosing an appropriate percentage of the fund created.”).)

13 As a secondary support for the percentage of the fund method, when fees are allocated by
14 percentage method, courts have discretion to “cross-check” the fees awarded through the lodestar
15 method. However, the *Laffitte* Court “emphasize[d] [that] the lodestar calculation, when used in
16 this manner, does not override the trial court’s primary determination of the fee as a percentage of
17 the common fund and thus does not impose an absolute maximum or minimum on the potential fee
18 award.” (*Laffitte*, 1 Cal.5th at p. 505 (emphasis added); *In re Rite Aid Corp. Secs. Litig.* (3d Cir.
19 2005) 396 F.3d 294, 306-307 (“[The lodestar cross-check does not trump the primary reliance on
20 the percentage of common fund method”).)

21 The Supreme Court in *Laffitte* stated: “If the multiplier calculated by means of a lodestar
22 cross-check is extraordinarily high or low, the trial court should consider whether the percentage
23 used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the
24 court is not necessarily required to make such an adjustment.” (*Id.*) Thus, a lodestar cross-check is
25 aimed at astronomical multipliers. Indeed, cross-checks are not required; in many cases,
26 performing a cross-check “undermines” one of the primary reasons for using the percentage
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1 method: aligning counsel's incentives with the benefits delivered to the class and discouraging
2 protracted litigation. (*Id.* at p. 506 (finding trial courts "retain the discretion to forgo a lodestar
3 cross-check"); *Report of the Third Circuit Task Force, Court Awarded Attorney Fees* (1985) 108
4 F.R.D. 237, 258; *Lealao*, 82 Cal.App.4th 19, pp. 29-30 (citing the recommendations of the Third
5 Circuit Task Force with approval and observing that "[t]he criticisms of the lodestar approach set
6 forth in this Report are now echoed by many authorities, who have been most vocal about the
7 manner in which it exacerbates the problem of 'cheap settlements' and burdens already
8 overworked trial judge").)

9 Courts have defined reasonable multipliers on a lodestar cross-check to "range from 2 to 4
10 or even higher." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255; *see also, e.g.,*
11 *Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 512 (applying a 2.52
12 multiplier on a cross-check in an antitrust class action); *Chavez*, 162 Cal.App.4th at 60 (applying a
13 2.5 multiplier on a lodestar cross-check); *City of Oakland v. Oakland Raiders* (1988) 203
14 Cal.App.3d 78 (affirming a 2.34 multiplier without remand).)

15 With respect to Plaintiff's Counsel's lodestar, to date, approximately 60.9 hours have been
16 expended by Plaintiff's Counsel this matter. (Tulyathan Decl. at ¶ 21, Ex. C.) Plaintiff's Counsel
17 expects to incur approximately 5 additional hours to handle any post-approval matters and any
18 settlement issues. (Tulyathan Decl. at ¶ 22.) Ms. Tulyathan requests an hourly rate of \$500.00 per
19 hour. (Tulyathan Decl. at ¶ 23.) The courts are quite liberal in the evidence required to prove an
20 attorney's hours. Detailed time records are not required. An attorney's testimony alone may
21 suffice: "Testimony of an attorney as to the number of hours worked on a particular case is
22 sufficient evidence to support an award of attorney fees, even in the absence of detailed time
23 records." (*Martino v. Denevi* (1986) 182 Cal.App.3d 553, 559.)

24 Reasonable hours include, in addition to time spent during litigation, the time spent before
25 the action is filed, including time spent interviewing the clients, investigating the facts and the law,
26 and preparing the initial pleadings. (*New York Gaslight Club, Inc. v. Carey* (1980) 447 U.S. 54,
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62.) Further, the fee award should include fees incurred to establish and defend the attorneys' fee claim. (*Serrano v. Unruh* (1982) 32 Cal.3d 621, 639 [*Serrano IV*].)

A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill and experience in the relevant community. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095.) The court may consider other factors when determining a reasonable hourly rate, *e.g.*, the attorney's skill and experience, the nature of the work performed, the relevant area of expertise and the attorney's customary billing rates. (*Flannery v. California Highway Patrol* (1998) 61 Cal.App.4th 629, 632-33.)

Plaintiff's Counsel's skill and experience justify the requested rate. As shown in the supporting declarations, Plaintiff's Counsel have significant experience in the area of employment and wage and hour class actions. Specifically, Plaintiff's Counsel's practice focuses on representing employees in employment matters, particularly wage and hour cases. (Tulyathan Decl. at ¶¶ 18-20.) As such, based on the hours and applicable rate, the total lodestar to be expended by Plaintiff's Counsel through finalizing this Settlement will be approximately \$32,950.00, based on 65.9 total hours. (Tulyathan Decl. at ¶ 23.)

Once the court establishes the lodestar amount, it may enhance the fee award by a multiplier in order to make an appropriate fee award. (*Serrano III*, 20 Cal.3d at p. 48.) The pertinent factors include the difficulty of the questions involved and the skill in presenting them, the contingent nature of the fee award, the extent to which the litigation precluded other employment, and the percentage-of-the-fund the attorney would have received on the fair market. (*Id.*; *Lealao*, 82 Cal.App.4th at p. 49.) However, this list is not exhaustive and the court can consider other factors it deems important in setting the multiplier. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1139.)

It is also critical to note that prompt settlement cannot be used to diminish the fee or the enhancement based on a percentage-of-the-fund. (*Lealao*, 82 Cal.App.4th at p. 52 (the promptness of settlement "cannot be used to justify the refusal to apply a multiplier").) According to *Lealao*,

1 courts placed “an extraordinarily high value” on settlement, and counsel should be rewarded, not
2 punished, for achieving this goal in a timely fashion. (*Id.*)

3 Here, based upon Plaintiff’s Counsel’s lodestar of \$32,950.00, Plaintiff’s request for a fee
4 award of \$16,150.00 is more than reasonable and fair. As the Court can see, the lodestar well
5 exceeds the requested fee amount, such that it would result in a negative multiplier. Based thereon,
6 Plaintiff’s Counsel’s request for attorneys’ fees in the amount of \$16,150.00 is fair and reasonable,
7 and the Court should approve this amount. Defendants take no position on the foregoing or the
8 reasonableness of Plaintiff’s requests for fees; however, Defendants do not oppose Plaintiff’s
9 request for attorneys’ fees.

10 **b. THE COSTS ARE REASONABLE**

11 Additionally, Plaintiff’s Counsel’s reimbursement of actual litigation costs in the amount
12 of \$2,110.16 is also reasonable, especially in light of the fact that the Parties agreed that Plaintiff’s
13 counsel may seek up to \$5,000.00 as reimbursement for litigation costs under the Settlement
14 Agreement. (*See* Settlement Agreement at ¶ 4; Tulyathan Decl. at ¶ 24, Ex. D.) As set forth in
15 Plaintiff’s Counsel’s declaration, the costs were all directly incurred in the prosecution of this
16 action, including, but not limited to, filing and service fees, postage fees, and court fees.
17 (Tulyathan Decl. at ¶ 24.) As such, the requested costs are fair and reasonable. Defendants take no
18 position on the foregoing or the reasonableness of Plaintiff’s requests for costs; however,
19 Defendants do not oppose Plaintiff’s request for costs.

20 **VI. APPROVAL OF PAGA SETTLEMENT SHOULD BE GRANTED**

21 Based on the above, Plaintiff and Defendants mutually request that this Court grant filing
22 approval to the PAGA settlement in this matter. The terms of the PAGA settlement completely
23 comply with the requirements of the Labor Code, and are fair, reasonable and adequate.

24 Plaintiff has provided notice to the LWDA of the alleged violations committed by
25 Defendants. The settlement is the result of informed and non-collusive arm’s-length negotiations,
26 based on discovery and information exchanged between the Parties. Finally, with respect to the
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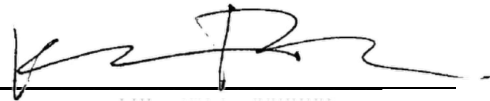
1 current settlement, the distribution of the PAGA penalties will be completed pursuant to the
2 percentages as called for in the Labor Code.

3 As such, in accordance with PAGA and the relevant case law, including the seminal case of
4 *Arias v. Superior Court* (2009) 46 Cal.4th 969, the Parties respectfully request that this Court grant
5 approval to the joint stipulation regarding the settlement.

6 IT IS SO STIPULATED

7 Date: August 17, 2021

DIVERSITY LAW GROUP, P.C.

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9 By: 

Larry W. Lee
Mai Tulyathan
Attorneys for Plaintiff,
DON SARUBBI, on behalf of him and
all similarly aggrieved employees

13 Date: August 17, 2021

PAUL HASTINGS LLP

14 By: 

15 Leslie L. Abbott
16 Chris A. Jalian
17 Attorneys for Defendants
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