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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

GORGE MONJARAZ, individually, and on
behalf of aggrieved employees pursuant to
the Private Attorneys General Act
("PAGA");

Plaintiff,

v.

H & U, INC., d/b/a SUN NOODLE
CALIFORNIA, LLC; and DOES 1 through
100, inclusive;

Defendants.

Case No.: 20CMCV00285

Assigned for All Purposes to:
Honorable Thomas D. Long
Department A

**PLAINTIFF'S NOTICE OF
MEMORANDUM AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF THE
REASONABLENESS OF PRIVATE
ATTORNEYS GENERAL ACT (LABOR
CODE §§ 2698, ET SEQ.)
SETTLEMENT, PLAINTIFF'S
COUNSEL PAYMENT, AND GENERAL
RELEASE PAYMENT**

[Declaration of Counsel (Douglas Han);
Declaration of Plaintiff (Gorge Monjaraz); and
[Proposed] Order and Judgment filed
concurrently herewith]

Hearing Date: July 1, 2022
Hearing Time: 8:30 a.m.
Hearing Place: Department A

Complaint Filed: November 6, 2020
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on July 1, 2022 at 8:30 a.m., or as soon as thereafter as
2 the matter may be heard, before the Honorable Thomas D. Long in Department A of the Los
3 Angeles Superior Court (Compton Courthouse), located at 200 West Compton Boulevard,
4 Compton, California 90220, Plaintiff Gorge Monjaraz (“Plaintiff”) will and hereby does move for
5 entry of the following orders:

- 6 1. Granting approval, pursuant to Labor Code section 2699(1), of the proposed settlement
7 between Plaintiff and Defendant H & U, Inc. d/b/a Sun Noodle California, LLC
8 (“Defendant”) of the claims brought pursuant to the Private Attorneys General Act of
9 2004 (“PAGA”) as set forth in the Settlement Agreement and Release of PAGA Claims
10 (“Settlement Agreement,” “Settlement,” or “Agreement”), attached as **Exhibit 2** to the
11 Declaration of Douglas Han;
- 12 2. Approving the PAGA Fund available for payment of PAGA penalties that is estimated
13 to be \$72,675.41, seventy-five percent (75%) of which (\$54,506.56) will be paid to the
14 California Labor and Workforce Development Agency (“LWDA”) and twenty-five
15 percent (25%) of which (\$18,168.85) will be paid to the PAGA Settlement Members,
16 on a pro rata basis, as their Individual Payments;
- 17 3. Directing Defendant to transfer the Maximum Settlement Amount to the Settlement
18 Administrator in accordance with the Settlement Agreement;
- 19 4. Directing the mailing of the Individual Payments accompanied by an explanatory letter
20 providing notice of PAGA settlement to PAGA Settlement Members;
- 21 5. Awarding \$10,000 to Plaintiff as the General Release Payment; and
- 22 6. Awarding Settlement Administration Costs to the Settlement Administrator of \$3,000;
- 23 7. Awarding to Plaintiff’s Counsel, Justice Law Corporation, attorneys’ fees of \$60,800
24 as compensation for reasonable attorneys’ fees and attorneys’ costs of \$13,524.59 as
25 reimbursement for litigation costs and expenses incurred in litigating the PAGA claim,
26 pursuant to Labor Code section 2699(g)(1) and Code of Civil Procedure section 1021.5;

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1 This memorandum of points and authorities will be based upon the following Settlement
2 Agreement, Declaration of Plaintiff's Counsel (Douglas Han), Declaration of Plaintiff (Gorge
3 Monjaraz) in support thereof, the pleadings and other records on file with the Court in this matter,
4 and such evidence and oral argument as may be presented at the hearing on this memorandum of
5 points and authorities.

6
7 Dated: June 22, 2022

JUSTICE LAW CORPORATION

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9 By: 
10 Douglas Han
11 *Attorneys for Plaintiff*
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. SUMMARY OF MEMORANDUM**

3 Under Labor Code section 2699(1)(2), Plaintiff seeks approval of the Agreement. Plaintiff
4 entered the Agreement on behalf of himself and all persons employed by Defendant as non-exempt
5 employees and worked for Defendant in California at any time during the time from August 17,
6 2019, through approval of the PAGA settlement (“PAGA Settlement Members”).

7 Subject to Court approval, the Parties agreed to resolve this case brought for a Maximum
8 Settlement Amount of \$160,000 that is inclusive of: (1) the amount allocated for the LWDA that
9 will be distributed in accordance with Labor Code section 2699(i); (2) the Plaintiff’s Counsel
10 Payment, pursuant to Labor Code section 2699(g)(1); (3) the General Release Payment; and (4)
11 the Settlement Administration Costs.

12 Plaintiff submits the Settlement is fair, adequate, and reasonable and meets requirements
13 for Court approval. Thus, Plaintiff respectfully requests that this Court approve the Settlement.

14 **II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

15 On August 17, 2020, Plaintiff served a notice letter to the LWDA and Defendant.
16 Afterwards, on November 6, 2020, Plaintiff filed this representative PAGA action.¹

17 Plaintiff’s allegations are Defendant: (1) failed to pay minimum and overtime wages; (2)
18 failed to provide compliant meal and rest breaks; (3) failed to timely pay wages; (4) failed to
19 provide compliant wage statements; and (5) failed to reimburse necessary business expenses.²

20 After conducting significant investigation, the Parties’ counsel engaged in extensive
21 negotiations to try to resolve the entire matter. The Parties participated in private mediation on
22 March 22, 2022 before Eve Wagner that ultimately resulted in the settlement of this case.³

23 Plaintiff now moves for an order granting approval of the Settlement, pursuant to Labor
24 Code section 2699(1)(2).

25 ¹ (Declaration of Douglas Han In Support of Plaintiff’s Memorandum of Points and
26 Authorities In Support of the Reasonableness of Private Attorneys General Act (Labor Code §§
2698, *et seq.*) Settlement (“Han Dec.”), ¶ 10.)

27 ² (*Id.* at ¶ 21.)

28 ³ (*Id.* at ¶¶ 15-16.)

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

2 **A. Distribution of the Maximum Settlement Amount**

3 Defendant will pay a Maximum Settlement Amount of \$160,000. The PAGA Fund will
4 be the Maximum Settlement Amount less the following: (1) the attorneys' fees of \$60,800; (2)
5 the attorneys' costs of \$13,524.59; (3) the General Release Payment of \$10,000; and (4) the
6 Settlement Administration Costs of \$3,000.⁴ Twenty-five percent (25%) of the PAGA Fund will
7 be distributed to each PAGA Settlement Members, on a pro rata basis, as their Individual
8 Payments, and the remaining seventy-five percent (75%) of the PAGA Fund will be transmitted
9 to the LWDA, pursuant to Labor Code section 2699(i).⁵

10 **B. Distribution of the PAGA Fund**

11 Within twenty (20) calendar days after the Effective Date, Defendant shall deposit the
12 Maximum Settlement Amount with the Settlement Administrator.⁶

13 Within twenty (20) business days after the Court grants approval of the settlement,
14 Defendants will provide the Settlement Administrator with a list of the names, last known
15 addresses, dates of active employment with Defendant during the PAGA Period, and Social
16 Security numbers for the PAGA Settlement Members. Within thirty (30) calendar days after the
17 Effective Date, the Settlement Administrator shall pay to the LWDA an amount equivalent to
18 seventy-five percent (75%) of the PAGA Fund, or as otherwise directed by the Court. Within
19 thirty (30) calendar days after the Effective Date, the Settlement Administrator shall distribute to
20 PAGA Settlement Members their Individual Payments, or as otherwise directed by the Court.⁷

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22 ///

23 ⁴ (See Settlement Agreement attached as **Exhibit 2** to the Declaration of Douglas Han In
24 Support of Plaintiff's Memorandum of Points and Authorities In Support of the Reasonableness
25 of Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) Settlement filed concurrently
herewith ("Settlement Agreement"), §§ IV(A), IV(B)(1), IV(B)(2), IV(C)(1), IV(D)(1).)

26 ⁵ (*Id.* at § IV(E).)

27 ⁶ (*Id.* at § V(A)(2).)

28 ⁷ (*Id.* at §§ V(C)(1), V(C)(2), V(C)(3).)

1 Within thirty (30) days after the Effective Date, Settlement Administrator shall pay the
2 Settlement Administration Costs directly to the Settlement Administrator, the Plaintiff's Counsel
3 Payment directly to Plaintiff's Counsel, and the General Release Payment directly to Plaintiff's
4 Counsel for delivery to Plaintiff.⁸

5 All settlement checks will remain valid and negotiable for one hundred eighty (180) days
6 from the date of their mailing by the Settlement Administrator. After one hundred eighty (180)
7 days from the date of their mailing by the Settlement Administrator, the dollar value of all checks
8 that remain uncashed for more than one hundred eighty (180) days will be void and sent to the
9 State of California State Controller's Office in the PAGA Settlement Member's name.⁹

10 **C. The Scope of the Release in the Settlement Agreement**

11 The Released Claims are all claims under the California Private Attorneys General Act of
12 2004 alleged or that could have been alleged based on the facts asserted in Plaintiff's letter to the
13 LWDA or this case, including but not limited to PAGA claims based on alleged unpaid wages;
14 failure to pay minimum and overtime wages; payment of wages upon termination; missed meal
15 period and rest period wages, including the calculation of meal and rest period premiums;
16 reimbursement for all necessary business expenses; non-compliant wage statements; failure to
17 keep accurate records; and Labor Code Sections 201, 202, 203, 204, 218.5, 221, 226, 226.3, 226.7,
18 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2800, 2802, and the IWC Wage Orders.¹⁰

19 **D. No Right to Object to or Opt Out of the Settlement**

20 "[A] PAGA action is a statutory action for penalties brought as a proxy for the state, rather
21 than a procedure for resolving the claims of other employees, there is no need to protect absent
22 employees' due process rights[.]" *Williams v. Sup. Ct.* (2017) 3 Cal.5th 531, 546. "Unnamed
23 employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of
24 the representative PAGA claim." *Ochoa-Hernandez v. CJADERS Foods, Inc.* (N.D. Cal. Apr. 2,
25 2010), 2010 WL 1340777, at p. *5. "PAGA does not make other potentially aggrieved employees

26 ⁸ (Han Dec., *supra*, at §§ V(D), V(E), V(F).)

27 ⁹ (*Id.* at § V(C)(6).)

28 ¹⁰ (*Id.* at § I(12).)

1 parties” to the action and no “due process concerns arise under PAGA because absent employees
2 do not own a personal claim for PAGA civil penalties and whatever personal claims the absent
3 employees might have for relief are not at stake.” *Williams, supra*, at 546-547 (internal references
4 omitted, citing *Amalgamated Transit Union, Local 1756, AFL-CIO v. Sup. Ct.* (2009) 46th Cal.4th
5 993, 1003 and *Iskanian v. CLS Trans. Los Angeles, LLC*, (2014) 58 Cal.4th 348, 381.)

6 “[A]bsent fellow employees will be bound by the outcome of any PAGA action[.]”
7 *Williams* at 548 (internal references omitted, citing *Arias, supra*, 980-981; *Fireside Bank v. Sup.*
8 *Ct.* (2007) 40 Cal.4th 1069, 1074 and *Richmond v. Dart Indus., Inc.* (1981) 29 Cal, 3d 462, 474.)

9 As such, consistent with the law, the Settlement does not provide for a procedure for
10 PAGA Settlement Members to opt out or otherwise exclude themselves the Settlement.

11 **IV. STANDARD FOR APPROVAL OF A PAGA SETTLEMENT**

12 The PAGA allows an “aggrieved employee” to bring a civil action on behalf of himself,
13 other aggrieved employees and the State to recover civil penalties with respect to provisions of
14 the Labor Code that do not otherwise provide for civil penalties (Lab. Code § 2699(g)), and also,
15 civil penalties which, outside of PAGA, only the LWDA can assess upon and collect from an
16 employer (Lab. Code § 2699(a)). Before bringing a civil action under PAGA, an employee must
17 comply with Labor Code section 2699.3. See Lab. Code § 2699(a).

18 The settlement of a PAGA claim requires court approval. See Lab. Code § 2699(1)(2)
19 (“The superior court shall review and approve any settlement of any civil action pursuant to this
20 part.”). However, “[a] PAGA claim asserted on a non-class representative basis . . . is not
21 considered a class action but a law enforcement action” and, therefore, does not have to meet the
22 requirements of a class action. *Casida v. Sears Holdings Corp.* (E.D. Cal. Jan. 26, 2012) 2012 WL
23 253217, at *3; *Thomas v. Aetna Health of Cal., Inc.* (E.D. Cal. June 2, 2011) 2011 WL 2173715,
24 at *11; *Arias, supra*, 46 Cal.4th at 980-88 (affirming lower court’s holding that “plaintiff need not
25 satisfy class action requirements” to assert a PAGA claim); *Pedroza v. PetSmart, Inc.* (C.D. Cal.
26 Jan. 28, 2013) 2013 WL 1490667, at *15. As such, a court’s review of a PAGA settlement involves
27 analysis of several unique features that render the approval process distinct from approval of a
28 class action settlement. A court reviewing a PAGA settlement need only “ensur[e] that a

1 negotiated resolution is fair to those affected.” *Williams, supra*, 549 (citing Lab. Code §
2 2699(l)(2)). Although Labor Code section 2699(l) does not set forth the criteria on which a PAGA
3 settlement is to be judged, courts have approved settlements of PAGA claims.¹¹

4 In a PAGA case, the Court’s focus is not the amount which “aggrieved employees” are to
5 receive, but instead, whether the total settlement amount achieves PAGA’s objectives. The
6 purpose of PAGA is “to incentivize private parties to recover civil penalties for the government
7 that otherwise may not have been assessed and collected by overburdened state enforcement
8 agencies.” See *Ochoa-Hernandez, supra*, 2010 WL 1340777, at *4 (citing *Arias, supra*, 46 Cal.4th
9 at 986). Penalties recovered under the PAGA are, in part, to “be distributed to the [LWDA] for
10 enforcement of labor laws . . . and for education of employers and employees about their rights
11 and responsibilities under this code, to be continuously appropriated to supplement and not
12 supplant the funding to the agency for those purposes.” See Lab. Code § 2699(j). The recovery of
13 penalties on behalf of the state, by way of a PAGA claim, is essentially a law enforcement action.
14 See *Amalgamated, supra*, 46 Cal.4th at 1003 (stating that the PAGA is mechanism for “an
15 aggrieved employee to recover civil penalties—for Labor Code violations—that otherwise would
16 be sought by state labor law enforcement agencies”); see also *Iskanian, supra*, at 381.

17 **V. THE PROPOSED SETTLEMENT IS FAIR AND SHOULD BE APPROVED.**

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

19 The Parties reached the Settlement through arm’s-length negotiations through experienced
20 counsel and a mediator at a full-day mediation.¹² A settlement agreement that is “the product of
21 extensive and hard-fought adversarial negotiations between the parties” is entitled to a
22 presumption of fairness. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245.

24 ¹¹ (See also See, e.g., *Resendez v. Bridgestone Retail Operations, LLC*, Los Angeles Sup.
25 Ct., Case No. BC596892 (June 2016), *DCH Auto Wage and Hour Cases*, Los Angeles Sup. Ct.,
26 Case No. JCCP4833 (May 2017); *Garcia v. Gordon Trucking* (E.D. Cal. Oct. 31, 2012) 2012 WL
27 5364575, at *3; *Schiller v. David’s Bridal, Inc.* (E.D. Cal. June 11, 2012) 2012 WL 2117001, at
28 *14; *Chu v. Wells Fargo Invs., LLC* (N.D. Cal. Feb. 16, 2011) 2011 WL 672645, at *1; *Franco v.*
Ruiz Food Prods. (E.D. Cal Nov. 27, 2012) 2012 WL 5941801, at *14; *Nordstrom Commissions*
Case (2010) 186 Cal.App. 4th 576, 589.)

¹² (Han Dec., *supra*, at ¶¶ 15-16.)

1 The Settlement is presumptively fair because it: (1) is the product of non-collusive, arm's-
2 length negotiations; (2) was negotiated by counsel with significant experience in similar wage-
3 and-hour litigation; and (3) occurred after Parties' counsel engaged in significant investigation the
4 strengths of this case and the risks of continued litigation. During all settlement discussions,
5 Parties conducted their negotiations at arm's-length from an adversarial position.¹³

6 The Parties agreed this matter is well-suited for settlement given the strengths and
7 weaknesses of the PAGA claim, and Plaintiff's Counsel believe the Settlement is a fair, adequate,
8 and reasonable resolution of this matter.¹⁴ Plaintiff's Counsel have extensive experience in
9 representative and class action wage-and-hour litigation and used that experience to achieve an
10 exceptional result.¹⁵ Therefore, the Court should give considerable weight to the competency,
11 experience, and opinion of counsel and the involvement of a neutral mediator in assuring that the
12 Settlement is a product of hard-fought negotiations that was entered without collusion. See
13 *Kirkorian v. Borelli* (N.D. Cal. 1988) 695 F.Supp. 446, 451 (opinion of experienced counsel is
14 entitled to considerable weight); *Boyd v. Bechtel Corp.* (N.D. Cal. 1979) 485 F.Supp. 610, 616-
15 17, 622 (recommendations of plaintiffs' counsel should be given a presumption of
16 reasonableness); see also *Satchell v. Fed. Express Corp.* (N.D. Cal. Apr. 13, 2007) 2007 WL
17 1114010, at *4 (stating that the "assistance of an experienced mediator in the settlement process
18 confirms that the settlement is non-collusive").

19 **B. The Relative Strength of the PAGA Claim and the Range of Possible Outcomes**
20 **in the Litigation Strongly Favor Approval of the Settlement.**

21 For Plaintiff to recover civil penalties, he must prove the underlying Labor Code
22 violations, demonstrate PAGA Settlement Members suffered, and show Defendant's conduct gave
23 rise to penalties. See, e.g., *Elliot v. Spherion Pac. Work, LLC* (C.D. Cal. 2008) 572 F.Supp.2d
24 1169, 1181-82 ("Plaintiffs' claim under [PAGA] is wholly dependent upon her other claims.
25 Because all of Plaintiffs' other claims fail as a matter of law, so does her PAGA claim.").

26 ¹³ (Han Dec., *supra*, at ¶¶ 15-16.)

27 ¹⁴ (*Id.* at ¶¶ 24, 49.)

28 ¹⁵ (*Id.* at ¶¶ 2-8; Exhibit 1.)

1 Although wage-and-hour actions are amenable to resolution as to a group of employees,¹⁶
2 courts have found the issues raised here raise individualized issues and/or are unmanageable and
3 are not suitable for adjudication.¹⁷ Defendant contended courts have found due process to
4 Defendant requires the adjudication of a PAGA claim meet a “manageability” requirement. See,
5 e.g., *Liuy v. Merrill Lynch & Co.* (C.D.Cal. Nov. 10, 2014) No. CV-14-0425-PA, WL 5904904 at
6 **3-4 (Court dismissed the PAGA claim because a multitude of individualized assessments would
7 be necessary, making the PAGA claim unmanageable).

8 Defendant maintained it had legally compliant employment policies and practices
9 throughout the statutory period. Defendant also denied it ever violated any provision of the Labor
10 Code. Next, Defendant denied this case is appropriate for representative treatment for any purpose
11 other than the Settlement. Finally, Defendant may challenge Plaintiff’s standing as a PAGA
12 Settlement Member and deny Defendant’s other employees were aggrieved.¹⁸

13 Defendant argued the Court was unlikely to assess cumulative penalties for the maximum
14 numbers of possible separate Labor Code violations because it would be unjust, arbitrary,
15 oppressive, and/or confiscatory. Thus, Plaintiff and Plaintiff’s Counsel considered the strengths
16 and weaknesses of each side’s position and the uncertainty of how the case might have ended.¹⁹

17 The provisions of the Labor Code potentially triggering PAGA penalties in this case
18 include, but are not limited to, Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3,
19 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802. Defendant asserts,
20 regardless of the results of the underlying causes of action, PAGA penalties are not mandatory
21 but permissive and discretionary. Defendant also maintain it had a strong argument it would be
22 unjust to award maximum PAGA penalties given the law’s unsettled state. (*Thurman v. Bayshore*
23

24 ¹⁶ (See, e.g., *Martinez vs. Joe’s Crab Shack Holdings, et al.* (2014) 231 Cal.App.4th 362,
25 383-84, *modified on other grounds by Martinez v. Joe’s Crab Shack Holdings, et al.* (Dec. 3, 2014
B242807) 2014 Cal.App. LEXIS 1102, *1-2.)

26 ¹⁷ (See, e.g., *Duran v. U.S. Bank Nat. Assn.* (2014) 59 Cal. 4th 1, 25, 29, 31, and 34-35.)

27 ¹⁸ (Han Dec., *supra*, at ¶¶ 22-23.)

28 ¹⁹ (*Id.* at ¶¶ 23-24.)

1 *Transit Mgmt., Inc.* (2012) 203 Cal.App.4th 1112 [reducing penalties by 30% under this
2 authority].) Defendant argued without stacking and limited to the initial violation, the PAGA
3 penalties would be **\$13,400** (134 employees x \$100 initial violations) on the low end and **\$80,400**
4 (134 employees x \$100 x 6 theories of recovery) on the high end.²⁰

5 Many of the causes of action brought were cumulative for which the Court may or may not
6 stack the violations. Thus, a Maximum Settlement Amount of \$160,000 for PAGA civil penalties
7 was reasonable and significant. When PAGA penalties are negotiated in good faith and “there is
8 no indication that [the] amount was the result of self-interest at the expense of other Class
9 Members,” such amounts are generally considered reasonable. *Hopson v. Hanesbrands Inc.*, Case
10 No. 08-00844, 2009 U.S. Dist. LEXIS 33900, at *24 (N.D. Cal. Apr. 3, 2009); *see, e.g., Nordstrom*
11 *Com. Cases*, 186 Cal. App. 4th 576, 579 (2010) (“[T]rial court did not abuse its discretion in
12 approving a settlement which does not allocate any damages to the PAGA claims.”). Plaintiff’s
13 Counsel negotiated about an average of **\$35.81** in penalties per aggrieved pay period would be
14 fair and reasonable [$\$160,000 \div 4,468$ pay periods in PAGA Period = **\$35.81**]. Considering the
15 recent cases justifying \$5 per pay period, *see e.g., Carrington v. Starbucks Corp.* 30 Cal.App.5th
16 504 (2018), **\$35.81** per pay period is great result.²¹

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

18 Courts favor the voluntary conciliation and settlement of complex litigation. *Class*
19 *Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276. Generally, “unless the settlement
20 is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive
21 litigation with uncertain results.” *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.* (C.D. Cal. Jan.
22 5, 2004) 221 F.R.D. 523, 526 (citation omitted).

23 Both sides used the pre-mediation time to investigate the veracity, strength, and scope of
24 the PAGA claim. The Parties engaged in discovery and exchanged documents and data relevant
25 to Plaintiff’s claim and Defendant’s defenses to determine the potential value and strength of the
26 PAGA claim. Parties’ Counsel undertook significant investigation and invested time reviewing

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28 ²⁰ (Han Dec., *supra*, at ¶¶ 25-29.)

²¹ (*Id.* at ¶ 30.)

1 and analyzing relevant documents and data to evaluate Plaintiff's claims, including Plaintiff's
2 Counsel's calculation of the potential penalties recoverable under PAGA.²²

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

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

8 The Settlement provides a significant monetary benefit to the LWDA and PAGA
9 Settlement Members and falls well within the range of acceptable settlement. Under the
10 Agreement, Defendant agreed to pay a Maximum Settlement Amount of \$160,000. The PAGA
11 Fund is currently estimated to be \$72,675.41. The proposed plan of allocation of the PAGA Fund
12 to the LWDA and PAGA Settlement Members fully complies with Labor Code section 2699(i).

13 Plaintiff and Plaintiff's Counsel recognize the expense, length, and risk of continued
14 proceedings necessary to litigate the disputes. They are aware of the burdens of proof necessary
15 to establish liability and the difficulties in establishing Defendant's liability for penalties on behalf
16 of Plaintiff and the PAGA Settlement Member. Finally, they have considered Defendant's
17 agreement to enter a settlement that confers significant relief. Collectively, they determined the
18 Settlement represents a fair, adequate, and reasonable resolution of the PAGA claim.²³

19 Therefore, the results achieved, and the PAGA allocation provided by the Settlement, is
20 within the range of acceptable settlement under the circumstances.²⁴

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22 ²² (Han Dec., *supra*, at ¶¶ 13-14, 24.)

23 ²³ (*Id.* at ¶¶ 21, 24, 49.)

24 ²⁴ (See, e.g., *DCH Auto Wage and Hour Cases*, Los Angeles Sup. Ct., Case No. JCCP4833
25 (May 2017) (approving \$15,000 out of \$4 million toward settlement of PAGA claims); *Garcia*,
26 *supra*, 2012 WL 5364575, at *3 (approving \$10,000 out of \$3.7 million toward settlement of
27 PAGA claims); *Schiller*, *supra*, 2012 WL 2117001, at *14 (approving \$10,000 out of \$518,245
28 toward settlement of PAGA claims); *Chu*, *supra*, 2011 WL 672645, at *1 (approving \$10,000 out
of \$6.9 million toward settlement of PAGA claims); *Franco*, *supra*, 2012 WL 5941801, at *14
(approving \$10,000 out of \$2.5 million toward settlement of PAGA claims); *Nordstrom*
Commissions Case, *supra*, at 589 (finding no abuse of discretion by the trial court in approving a

(Footnote continued)

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

2 Plaintiff’s Counsel are experienced in complex representative and class action wage-and-
3 hour litigation.²⁵ Plaintiff’s Counsel believe the benefit conferred by the Settlement is eminently
4 fair and reasonable and in the best interests of the LWDA and PAGA Settlement Members.²⁶

5 **VI. APPROVAL OF THE REQUESTED ATTORNEYS’ FEES.**

6 **A. A Fee Award of Percentage of the Entire Fund is Appropriate.**

7 The Settlement provides for Plaintiff’s Counsel to apply to the Court for an attorneys’ fees
8 of up to thirty-eight percent (38%) of the Maximum Settlement Amount, which is \$60,800. The
9 requested attorneys’ fees are commensurate with: (1) the risk Plaintiff’s Counsel undertook; (2)
10 the time, effort and expense dedicated; (3) the skills and determination shown; (4) the value
11 achieved; and (5) the other cases turned down to devote its time and efforts to this matter.

12 Plaintiff’s Counsel are entitled to recover reasonable attorneys’ fees and costs as a matter
13 of right under PAGA. See Lab. Code § 2699(g)(1). Plaintiff’s Counsel is entitled to fees and costs
14 under Code of Civil Procedure section 1021.5, as the instant PAGA action is by definition “for
15 the benefit” of others and has secured monetary awards for PAGA Settlement Members.²⁷
16 Furthermore, the payment to the LWDA will also benefit the agency in enforcing labor laws and
17 educating “employers and employees about their rights and responsibilities under [the Labor
18 Code].” Lab. Code § 2699(i).

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23 settlement that allocates \$0 toward the settlement of PAGA claims that were at issue in the
24 lawsuit.)

25 ²⁵ (Han Dec., *supra*, at ¶¶ 2-8; Exhibit 1.)

26 ²⁶ (*Id.* at ¶ 49.)

27 ²⁷ (*See Estrada v. FedEx Ground Package Sys. Inc.* (2007) 154 Cal.App.4th 1, 16-17
28 (recognizing that recovery obtained on behalf of 209 individual satisfies the “significant benefit,”
“public interest,” and “large class of persons” requirements of Code of Civil Procedure section
1021.5, regardless of plaintiff’s personal motivation).)

1 Plaintiff's Counsel investigated and litigated this case for almost a year before mediation,
2 with the real possibility of an unsuccessful outcome and no fee recovery.²⁸ The ongoing work has
3 been extensive and successful in achieving a settlement resolution. Plaintiff's Counsel has borne
4 all the risks and costs of litigation and will not receive any compensation until recovery. Thus, the
5 requested Plaintiff's Counsel Payment are reasonable and should be awarded.²⁹

6 **B. The Requested Attorneys' Fees is Reasonable Based on the Factors Considered**
7 **in Determination of Fee Awards.**

8 The factors courts consider in determining whether fee awards are reasonable are: (1) time
9 and labor required; (2) novelty and difficulty of the questions; (3) requisite skills to perform the
10 legal services; (4) preclusion of other employment by the attorney; (5) customary fee; (6) whether
11 the fee is fixed or contingent; (7) time limitation imposed; (8) amount involved and results
12 obtained; (9) experience, reputation and ability of the attorney; (10) undesirability of the case;
13 (11) nature and length of the professional relationship; and (12) awards in similar cases. *Camden*
14 *I Condo. Ass'n, Inc. v. Dunkel* (11th Cir. 1991) 946 F. 2d 768, 772.

15 It should be highlighted the percentage award sought is commensurate with: (1) results
16 obtained; (2) extraordinary risks undertaken; (3) novelty and difficulty of this case; and (4) skills
17 displayed and the quality of work, which are addressed below.

18 **1. *The Results Obtained***

19 The results attorneys obtain for their clients is an important factor when determining the
20 reasonability of a percentage-based fee. *See Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480,
21 489. Law firms that obtain exceptional results for clients expect them to be reflected in their fees.

22 The results obtained are reasonable as Plaintiff's Counsel obtained a settlement of
23 \$160,000 without the need for extended litigation. If this case went to trial, there was no guarantee
24 the trial would have been short or either party would prevail. Even if the Parties reached a similar
25 settlement, it would have been undercut by additional expenses incurred. Resolution of this
26 dispute at this stage is preferred as the Parties were moving to the phase where significant time

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28 ²⁸ (Han Dec., *supra* at ¶¶ 11-13.)

²⁹ (*Id.* at ¶ 45.)

1 and money would inevitably have to be spent to prepare for trial.

2 Consequently, by agreeing to settle this case prior to trial, Plaintiff's Counsel used their
3 skills and experience to obtain a fair result for the PAGA Settlement Members at far less expense.
4 By avoiding the uncertainties associated with conducting trial and Defendant's responses to
5 Plaintiff's allegations, Plaintiff's Counsel obtained those results more quickly and surely than if
6 the matter had been litigated to final resolution. Under California law, this factor also supports the
7 requested fee. *See Lealao v. Beneficial Cal., Inc.*, (2000) 82 Cal. App. 4th 19, 51.

8 **2. The Extraordinary Risk Taken by Plaintiff's Counsel**

9 Whether or not representation is provided on a contingency basis is an important factor:

10 A contingent fee must be higher than a fee for the same legal services paid as they are
11 performed [and] [...] compensates the lawyer not only for the legal services he renders but
12 for the loan of those services. A lawyer who both bears the risk of not being paid and
13 provides legal services is not receiving the fair market value of his work if he is paid only
14 for the second of these functions. If he is paid no more, competent counsel will be reluctant
15 to accept fee award cases. (internal quotes and citations omitted)

16 *Cates v. Chiang* (2013) 213 Cal. App. 4th 791, 823.

17 Plaintiff executed a contingent fee agreement. This meant no recovery would have equated
18 to no compensation for 286.7 hours of work and \$13,524.59 litigation costs incurred.³⁰

19 Finally, several factors made this case tricky. This included: (1) size of PAGA Settlement
20 Members; (2) difficulties in pinning down job responsibilities, wages paid, meal and rest breaks
21 taken; (3) number of documents that had to be analyzed; (4) shifting wage-and-hour laws; and (5)
22 Defendant's firm resistance to the relief.

23 **3. The Novelty and Difficulty of the Litigation**

24 The myriad of difficulties addressed above made this case more complex and difficult than
25 the average lawsuit. Plaintiff's Counsel overcame them by obtaining a settlement that is fair,
26 adequate, and reasonable. The fact Plaintiff's Counsel were able to obtain a great settlement
27 despite these obstacles speaks volumes of their skills. *See Lealao*, 82 Cal.App.4th at 42 (counsel's
28 "special skill and experience of counsel" a relevant factor when determining fee award).

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³⁰ (Han Dec., *supra*, at ¶¶ 41, 45.)

1 The Task & Time Chart set forth substantial number of hours devoted, allocating the total
2 time to the tasks that were required to bring this matter to its successful conclusion. The chart is
3 thorough, comprehensive, and demonstrates the effort to diligently manage this case.³¹

4 As stated in the previous section, this was not a clear-cut case, and Plaintiff's Counsel had
5 to overcome several roadblocks and obstacles before they could reach a reasonable settlement.
6 The fact this case has been litigated for over one and one-half (1.5) years speaks volumes of the
7 novelty and difficulty of this case that Plaintiff's Counsel had to deal with and overcome.

8 **4. The Skill Displayed and Quality of Work**

9 The level of skill displayed and the excellent quality of work it produced also justify the
10 requested fee. Plaintiff's Counsel are skilled and experienced representative and class action
11 wage-and-hour litigators. The Task & Time Chart further illustrates this assertion.

12 Plaintiff's Counsel conducted investigations and discovery into the facts. This included,
13 among other things: (1) case strategy and analysis; (2) drafting, reviewing, and revising pleadings
14 and a mediation brief; (3) preparing for and appearing for court proceedings; (4) undertaking
15 calculations of the value of the claims; (5) propounding formal discovery; and (6) preparing for
16 and attending the mediation and settlement negotiations.³²

17 In addition to determining scope of the PAGA Settlement Members, Plaintiff's Counsel
18 undertook the time-consuming task of locating and interviewing PAGA Settlement Members to
19 verify if Plaintiff's claims raised any individualized issues.

20 **C. The Lodestar Methodology Also Justifies Approval of the Requested Fees.**

21 Plaintiff's Counsel spent 286.7 hours litigating this matter. Plaintiff's Counsel's hourly
22 rates are supported by the 2021 Real Rate Report that was compiled by Wolter Kluwer that
23 surveyed the hourly rates charged in 2021 by hundreds of attorneys in California. Likewise,
24 Plaintiff Counsel's hourly rates are also in line with the Laffey Matrix.³³

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26 ³¹ (Han Dec., *supra*, at ¶ 41; Exhibit 4.)

27 ³² (*Id.* at ¶ 13.)

28 ³³ (*Id.* at ¶ 43; Exhibits 5-6.)

1 Plaintiff's Counsel documented lodestar is calculated to be \$188,400. When cross-checked
2 with the requested attorneys' fees, it results in a negative multiplier of 0.32. The hours spent are
3 fully documented and consistent with those that would be expected in a matter of this duration,
4 complexity, and amounts at stake.³⁴

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

6 The case involved, among other things, gathering and analyzing data from Defendant and
7 the PAGA Settlement Members. Class Counsel undertook intense preparation to resolve the entire
8 matter through mediation. These intense preparations ranged from locating and interviewing
9 several putative PAGA Settlement Members, reviewing a myriad of documents, determining the
10 scope of the PAGA Settlement Members, verifying the strengths of Plaintiff's claims, etc.

11 The Task & Time Chart evidence the numerous tasks that were performed to seek all
12 necessary information.³⁵ Thus, Plaintiff's Counsel spent a reasonable number of hours working
13 on this case, and their application for attorneys' fees is within the range of reasonableness.

14 ***2. The Fees Requested Represent a Reasonable Hourly Rate of Compensation.***

15 Class Counsel's hourly rates are well within the range of rates charged by comparably
16 qualified attorneys in California and the legal profession in general for comparably complex work.
17 By extension, Plaintiff's Counsel's hourly rates are also in line with the Laffey Matrix.³⁶

18 Plaintiff's Counsel's hourly rates are reasonable for the following reasons: (1) comparable
19 hourly rates for similar services have been deemed to be reasonable in several cases in California;
20 and (2) several surveys of legal rates have supported Plaintiff Counsel's hourly rates. Based on
21 the attorney time expended, the lodestar fees incurred to date total \$188,400, resulting in a
22 negative multiplier of 0.32 when cross-checked to the requested attorneys' fees.³⁷

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25 ³⁴ (Han Dec., *supra*, at ¶¶ 42, 44.)

26 ³⁵ (*Id.* at ¶ 41; Exhibit 4.)

27 ³⁶ (*Id.* at ¶¶ 42-43; Exhibits 5-6.)

28 ³⁷ (*Id.* at ¶¶ 42, 44.)

1 **VII. THE LITIGATION COSTS TO BE REIMBURSED AND SHOULD BE APPROVED**

2 The Settlement provides for attorneys' costs not to exceed \$20,000.³⁸ Plaintiff's Counsel
3 have incurred \$13,524.59 in litigation costs and expenses, which were reasonable and necessary.³⁹
4 Thus, Plaintiff's Counsel request the Court order reimbursement for the above-mentioned costs.

5 **VIII. APPROVAL OF THE PROPOSED GENERAL RELEASE PAYMENT TO**
6 **PLAINTIFF**

7 The Settlement provides for a General Release Payment of \$10,000 to be paid to
8 Plaintiff.⁴⁰ Plaintiff contributed considerable time and effort to the litigation to enforce the Labor
9 Code, producing relevant documents and providing the facts and evidence necessary to support
10 the allegations (*i.e.*, describing work experience and work environment created by Defendant).
11 Plaintiff was available whenever Plaintiff's Counsel needed him and tried to obtain documents
12 and information that would aid the litigation of this case (*i.e.*, contact information of putative
13 PAGA Settlement Members to contact and interview). Plaintiff was made aware of and accepted
14 the risks and consequences associated with serving as the named plaintiff (*i.e.*, broader release,
15 difficulty finding employment, risk of a judgment entered against him for attorneys' fees and
16 costs). Finally, Plaintiff's continued assistance has proven to be invaluable to Plaintiff's Counsel
17 in terms of developing legal theories, interviewing putative PAGA Settlement Members, and
18 requesting and obtaining relevant documents.⁴¹

19 Thus, it is reasonable and just for Plaintiff to receive a General Release Payment of
20 \$10,000 in addition to the Individual Payment he will receive as a PAGA Settlement Member.

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24 ³⁸ (Settlement Agreement, *supra*, § IV(B)(1).)

25 ³⁹ (Han Dec., *supra*, at ¶ 45; Exhibit 7.)

26 ⁴⁰ (Settlement Agreement, *supra*, at § IV(C)(1).)

27 ⁴¹ (Han Dec., *supra*, at ¶ 48; Declaration of Gorge Monjaraz In Support of Plaintiff's
28 Memorandum of Points and Authorities In Support of the Reasonableness of Private Attorneys
General Act (Labor Code §§ 2698, *et seq.*) Settlement ("Monjaraz Dec."), ¶¶ 4-9.)

1 **IX. THE SETTLEMENT ADMINISTRATION COSTS SHOULD BE APPROVED**

2 The Agreement provides for the payment of Settlement Administration Costs of \$3,000 to
3 Phoenix Class Action Administration Solutions (“Phoenix”).⁴² The Settlement Administration
4 Costs are intended to cover the costs incurred by Phoenix for performing its duties outlined in
5 Agreement. Plaintiff’s Counsel have worked with Phoenix before and are familiar with its superior
6 reputation and work product.⁴³

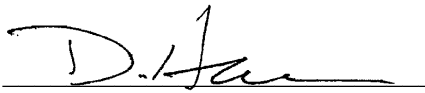
7 Therefore, the Court should approve the payment of the Settlement Administration Costs
8 of \$3,000 to Phoenix, a necessary third-party to the notice and settlement process.

9 **X. CONCLUSION**

10 The Settlement is fair, adequate, and reasonable, as it represents a reasoned compromise.
11 Based thereon, Plaintiff requests the Court approve the Settlement, including the plan of allocation
12 and distribution of the Maximum Settlement Amount, Plaintiff’s Counsel Payment, Settlement
13 Administration Costs, and General Release Payment.

14
15 Dated: June 22, 2022

JUSTICE LAW CORPORATION

16 By: 
17 Douglas Han
18 Attorneys for Plaintiff
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28 ⁴² (Settlement Agreement, *supra*, at § IV(D)(1).)

⁴³ (Han Dec., *supra*, at ¶ 46.)

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**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On June 24, 2022, I served the foregoing document described as

**PLAINTIFF'S NOTICE OF MEMORANDUM AND MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT OF THE REASONABLENESS OF PRIVATE
ATTORNEYS GENERAL ACT (LABOR CODE §§ 2698, ET SEQ.) SETTLEMENT,
PLAINTIFF'S COUNSEL PAYMENT, AND GENERAL RELEASE PAYMENT**

for the following case: **Monjaraz v. H&U, Inc. d/b/a Sun Noodle California, LLC**
LWDA/Court Case No.: **LWDA Case No.: CM- 802848-20**
Court Case No.: 20CMCV00285
Los Angeles County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on June 24, 2022, at Pasadena, California.



Mariah Anderson