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15 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **IN AND FOR THE COUNTY OF SACRAMENTO**

17 JOSHUA ARANDA, individually, and on
18 behalf of all others similarly situated,

19 Plaintiff,

20 vs.

21 CHIPOTLE MEXICAN GRILL, INC., and
22 DOES 1 through 100, inclusive,

23 Defendants.

Case No. 34-2021-00294848

REPRESENTATIVE ACTION

**PLAINTIFF'S NOTICE OF MOTION AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR APPROVAL OF
PAGA SETTLEMENT**

Date: November 23, 2021

Time: 9:00 a.m.

Dept: 54

Judge: Hon. Christopher E. Krueger

Rsvn: 2598502

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NOTICE OF MOTION

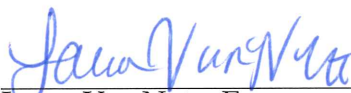
TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on November 23, 2021, at 9:00 a.m., or as soon thereafter as the matter may be heard in Department 54 of the above-entitled Court, located at 813 6th Street, Sacramento, CA, Representative Plaintiff Joshua Aranda ("Plaintiff") will and hereby does move this Court for an Order approving the parties' proposed PAGA Settlement.

This Motion is based upon the accompanying Memorandum of Points and Authorities, the Declaration of Scott Edward Cole, Esq. and exhibits thereto, and such other oral argument and documentary evidence as may be presented to the Court at the hearing of this Motion.

Dated: October 15, 2021

COLE & VAN NOTE

By: 

Laura Van Note, Esq.
Attorneys for Representative Plaintiff
and Aggrieved Employees

TABLE OF CONTENTS

I. INTRODUCTION.....	6
II. PROCEDURAL HISTORY AND SETTLEMENT NEGOTIATIONS	7
III. TERMS OF THE PAGA SETTLEMENT	9
IV. THE PARTIES HAVE SETTLED PLAINTIFF’S PAGA CLAIM	11
V. THE PARTIES REQUEST APPROVAL OF THIS PAGA SETTLEMENT	11
A. THE PAGA PENALTIES TO BE PAID ARE FAIR, ADEQUATE AND REASONABLE.....	12
B. THE REMAINING SETTLEMENT TERMS SHOULD BE APPROVED.....	15
VI. CONCLUSION	16

TABLE OF AUTHORITIES

State Cases

<i>Arias v. Superior Court</i> (2009) 46 Cal.4th 969.....	12
<i>Bright v. 99 Cents Only Stores</i> (Cal. Super. Ct. L.A. County Dec. 7, 2011) 2011 WL 12913379	14
<i>Fenley v. Rite Aid Corp.</i> (Cal. Super. Ct. Santa Clara County Sept. 17, 2015) Case No. 1-12-CV-220127, 2015 WL 8240387.....	13
<i>Fox v. Hale & Norcross Silver Mtn. Co.</i> (1895) 108 Cal. 475	15
<i>Harrington v. Payroll Entertainment Services, Inc.</i> (2008) 160 Cal.App.4th 589.....	15
<i>Iskanian v. CLS Transportation</i> (2014) 59 Cal.4th 348.....	6
<i>Lafitte v. Robert Half Intern., Inc.</i> (2016) 1 Cal.5th 480	15
<i>Wershba v. Apple Computer, Inc.</i> (2001) 91 Cal.App.4th 224.....	15
<i>Wesson v. Staples The Office Superstore, LLC</i> CA Ct. App., Case No. B302988 (September 9, 2021)	12

Federal Cases

<i>Amiri v. Cox Communications California, LLC</i> (C.D.Cal. Sept. 27, 2017) 2017 WL 44004639 19	13
<i>Bowers v. First Student, Inc.</i> (C.D. Cal Apr. 23, 2015) 2015 WL 1862914.....	14
<i>Brown v. American Airlines, Inc.</i> (C.D. Cal. Oct. 5, 2015) 2015 WL 6735217	14
<i>Cardenas v. McLane Foodservice, Inc.</i> 2011 U.S. Dist. LEXIS 13126 (C.D. Cal. 2011)	13
<i>Flores v. Starwood Hotels & Resorts Worldwide, Inc.</i> (C.D. Cal. 2017) 253 F.Supp.3d 1074	12
<i>Franco v. Ruiz Food Products, Inc.</i> 2012 WL 5941801 (E.D. Cal. 2012)	14

1	<i>Hopkins v. Stryker Sales Corp.</i>	
2	2013 (N.D.Cal. 2013) 2013 WL 496358.....	15, 16
3	<i>Jordan v. NCI Grp., Inc.</i>	
4	No. EDCV161701JVSSPX, 2018 WL 1409590, at *3 (C.D. Cal. 25 Jan. 5, 2018)	12
5	<i>O'Connor v. Uber Technologies, Inc.</i>	
6	(N.D. Cal. 2016) 201 F.Supp.3d 1110.....	12
7	<i>Parkinson v. Hyundai Motor Am.</i>	
8	(C.D. Cal.2010) 796 F.Supp.2d 1160.....	15
9	<i>Salazar v. McDonald's Corp.</i>	
10	(N.D.Cal. Jan. 5, 2017) 2017 WL 88999.....	14
11	<i>Schiller v. David's Bridal, Inc.</i>	
12	2012 WL 217001 (E.D. Cal. 2012)	14
13	<i>Viceral v. Mistras Group, Inc.</i>	
14	(N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 WL 5907869	12
15	<i>Villalobos v. Calandri Sonrise Farm LP</i>	
16	(C.D. Cal., July 22, 2015, No. CV122615PSGJEMX) 2015 WL 12732709.....	12
17	<u>State Statutes</u>	
18	Labor Code § 2698, <i>et seq.</i>	6
19	Labor Code § 2699(g)(1)	6, 11, 15
20	Labor Code § 2699(l)	6, 11, 12
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

By and through this Motion, Plaintiff Joshua Aranda (“Plaintiff”) seeks this Court’s approval pursuant to Labor Code § 2699(l) of the settlement of Private Attorneys General Act (“PAGA,” Labor Code § 2698, *et seq.*) with defendant Chipotle Mexican Grill, Inc. and its subsidiary, Chipotle Services, LLC (hereinafter “Chipotle” or “Defendant”). This is only a settlement of the PAGA claims for civil penalties, it is not a class settlement, and the Settlement does not release the individual claims of the members of the PAGA Collective other than Plaintiff.¹ Labor Code § 2699(g)(1); *Iskanian v. CLS Transportation* (2014) 59 Cal.4th 348, 381.

The proposed Settlement Agreement (“Settlement Agreement”) provides that Defendant will pay \$1,500,000 to resolve the Aggrieved Employees’ claims of Labor Code violations² based on the allegations in the operative Complaint, including compensation to Plaintiff’s counsel for attorneys’ fees (\$525,000)³ and costs (actual costs being \$7,916.39, but a request being made for \$10,000 to cover post-approval efforts in communicating with PAGA aggrieved employees, to ensure compliance by the claims administrator, further court appearances, etc.),⁴ pay for third-party settlement administration in an amount not to exceed \$46,750⁵, provide the PAGA representative with an enhancement award of \$7,500⁶, and an estimated total of \$910,750 to be distributed (i.e., 75% to the California Labor and Workplace Development Agency for resolution of the PAGA claims (\$683,062.50) and the remaining 25% (\$227,687.50)⁷ to be distributed to the Settlement Group members. The non-reversionary Settlement Agreement encompasses all claims Plaintiff asserted in his operative Complaint on behalf of himself and a group of 29,918 current and former California employees of Defendant in the settlement group of “all current and former

¹ Settlement Agreement attached as Exhibit A to Declaration of Scott Edward Cole, Esq. in Support of Motion for Approval of PAGA Settlement (“Settlement Agreement”).

² Settlement Agreement ¶ 6.1.

³ Settlement Agreement ¶ 6.2.

⁴ Cole & Van Note Cost Journal attached as Exhibit B to Declaration of Scott Edward Cole, Esq. in Support of Motion for Approval of PAGA Settlement (“SCA Cost Journal”).

⁵ CPT Cost Estimate attached as Exhibit D to Declaration of Scott Edward Cole, Esq. in Support of Motion for Approval of PAGA Settlement (“CPT Cost Estimate”).

⁶ Settlement Agreement ¶ 6.3.

⁷ Settlement Agreement ¶ 6.5.

1 exempt and non-exempt restaurant workers who worked in California during the period of June
2 16, 2020 through the date this Court grants approval of the settlement.”⁸

3 Since its filing in February of 2021,⁹ Plaintiff’s Counsel, Cole & Van Note (“CVN”) has
4 prosecuted and displayed zealous advocacy on behalf of the collective members, and exhibited, at
5 all times, a commitment to pursuing the action through trial and any necessary appeals. Indeed, it
6 was the display of this effort, coupled with Plaintiff’s Counsel’s decades of that same commitment
7 to such cases, that generated this healthy settlement. In order to compensate them for those efforts,
8 the Settlement permits Plaintiff’s Counsel to request attorneys’ fees in the amount of \$525,500, an
9 amount that is 35%¹⁰ of the common fund. The Settlement also allows Plaintiff’s Counsel to seek
10 reimbursement of their actual and reasonable litigation costs in addition to their fees, capped at
11 \$10,000.¹¹ It also provides for a representative enhancement award of up to \$7,500¹² for Plaintiff
12 and reimbursement of settlement administration fees. *Id.*

13 Plaintiff now respectfully requests that the Court approve the Settlement as fair, adequate
14 and reasonable, and approve the proposed awards for attorneys’ fees, representative enhancement
15 award and settlement administration costs, and enter judgment accordingly so that this complex
16 litigation can be resolved, judgment can be entered, and the settlement funds distributed to the
17 Settlement Group as expeditiously as possible.

18 19 **II. PROCEDURAL HISTORY AND SETTLEMENT NEGOTIATIONS**

20 On February 16, 2021, Plaintiff submitted to Defendant and the Labor Workforce and
21 Development Agency (“LWDA”) a notice of his intent to seek penalties pursuant to PAGA as
22 required by the statute.¹³ The LWDA did not provide any indication that it intended to investigate
23 Plaintiff’s claims, so he added a cause of action under PAGA to the operative complaint in the
24

25 ⁸ Settlement Agreement ¶ D.

26 ⁹ Settlement Agreement ¶ A.

27 ¹⁰ Settlement Agreement ¶ 6.2.

28 ¹¹ CVN Cost Journal.

¹² Settlement Agreement ¶ 6.3.

¹³ Declaration of Scott Edward Cole, Esq. in Support of Motion for Approval of PAGA Settlement (“Cole Decl.”)
¶ 2.

1 Sacramento Superior Court on April 26, 2021.¹⁴ Plaintiff served an initial set of written discovery
2 on March 10, 2021.¹⁵ However, shortly thereafter, the parties agreed to engage in mediation and
3 an informal exchange of information in an attempt to resolve the case before engaging in costly
4 and time-consuming formal discovery.¹⁶

5 Following the parties' agreement to engage in mediation, the parties engaged in further
6 informal discovery in order to prepare for the mediation session. In response to Plaintiff's counsels
7 requests, Defendant produced various records and policies, as well as data for the 29,918 aggrieved
8 employee group (including the total meal and rest period premiums paid during the applicable
9 period), to allow Plaintiff's counsel to make calculations of potential penalties.¹⁷ The documents
10 produced included attestations of employees as to the availability of breaks, meal period waivers,
11 policies providing for an automatic missed break premium, meal and rest break policies and
12 training materials, and Plaintiff's employee file. Plaintiff compiled the data produced by
13 Defendant, and estimated PAGA penalties on all claims for the entirety of the Settlement Period
14 based on the data provided during the informal exchange.¹⁸ The information produced by
15 Defendant, coupled with Plaintiff's investigation of the claims, provided Plaintiff's counsel with
16 sufficient information to evaluate the likelihood of success on the merits and assess the potential
17 risks facing Plaintiff.¹⁹

18 On August 5, 2021, the parties attended an exhaustive full-day mediation session with
19 Mariam Zadeh, a highly respected mediator who specializes in wage and hour class action and
20 PAGA mediations.²⁰ Plaintiff submitted a mediation brief summarizing the evidence that counsel
21 had marshalled and synthesized, the state of the applicable law, and potential group-wide
22 exposure.²¹ Defendant submitted its own brief arguing that it would prevail on the merits against
23 the individual Plaintiff and any other aggrieved employees and that the claims would be

24 ¹⁴ *Id.*

25 ¹⁵ Cole Decl. ¶ 7.

26 ¹⁶ Cole Decl. ¶ 9.

27 ¹⁷ Cole Decl. ¶ 11.

28 ¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Cole Decl. ¶ 10.

²¹ Cole Decl. ¶ 12.

1 unmanageable.²² With Ms. Zadeh’s assistance, the Parties agreed, subject to approval by this
2 Court, to the Settlement Agreement, which was ultimately memorialized and executed on
3 September 27, 2021.²³

4 Plaintiff and his counsel believe the Settlement Agreement is well within the range of
5 reasonableness and is in the best interest of the proposed Settlement Group in light of all known
6 facts and circumstances, including the risk of significant delay and defenses asserted by Defendant.

7 8 **III. TERMS OF THE PAGA SETTLEMENT**

9 The settlement agreement negotiated by the parties provides for Defendant to pay a total of
10 \$1,500,000 as the maximum settlement amount. From that maximum amount, after court-
11 approved deductions for attorneys’ fees (35% of the gross settlement fund, or \$525,500) and
12 attorneys’ costs sought (capped at \$10,000), the claims administrator payment (\$46,750), and an
13 enhancement award to the named plaintiff (\$7,500), the net settlement amount is estimated to be
14 \$910,750. The PAGA payment would then be distributed as follows:

15 16 **A. PAGA CIVIL PENALTIES AMOUNT**

17 One-hundred percent (100%) of the Net Settlement Amount shall be designated as the
18 “PAGA Civil Penalties Amount.” 75% of the PAGA Civil Penalties Amount shall be paid to the
19 LWDA as the LWDA’s share of the PAGA Civil Penalties Amount and 25% shall be paid to the
20 Settlement Group Employees (“SGE”) as the Settlement Group’s share of the PAGA Civil
21 Penalties Amount.

22 Within twenty (20) business days of the Effective Date, Defendant will provide to the
23 Administrator the contact information and pay periods of employment during the Settlement
24 Period for each SGE. Within ten (10) days of the receipt of the Settlement Group Data, the
25 Settlement Administrator will: (i) run the names of all SGEs through the National Change of
26 Address database to determine any updated addresses; (ii) update the addresses of any SGE for

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28 ²² *Id.*

²³ Cole Decl. ¶ 13.

1 whom an updated address was found through the search; and (iii) provide Defendant with the
2 information required for disbursement of the settlement fund and wiring instructions. Within seven
3 (7) days of receiving the wiring instructions, Defendant will wire the disbursement amount to the
4 Settlement Administrator. Within seven (7) days of receiving the disbursement amount, the
5 Settlement Administrator will mail all required payments and the “Notice of Settlement” to the
6 SGEs. Any uncashed checks within 180 days from the date the Settlement Administrator mails it
7 will be sent to the California Unclaimed Property Fund maintained by the California State
8 Controller’s Office.

9 The allegedly aggrieved employees in the Settlement Group are defined as “all non-exempt
10 restaurant workers employed by Defendant in California at any time after June 16, 2020 through
11 the date the Court signs an Order granting approval of the settlement.” The total number of
12 allegedly aggrieved employees is 29,918.

13 As to the Settlement Group members (the SGEs), the Settlement only releases:

14 **Release.** Upon the Effective Date, Plaintiff, on behalf of himself, the State of California,
15 and Aggrieved Employees shall fully release and forever discharge the claims alleged in the
16 Lawsuit arising during the PAGA Period for civil penalties under PAGA for any and all Labor
17 Code violations including all claims that were asserted or could have been asserted based on the
18 facts alleged in the operative Complaint in this case against Defendant and its past, present, and
19 future owners, parents, subsidiaries, and all of its current, former, and future officers, directors,
20 members, managers, employees, consultants, partners, shareholders, joint venturers, successors,
21 assigns, accountants, insurers, or legal representatives (“Released Parties”). Upon entry of the
22 order approving this Agreement and judgment entered thereon, Plaintiff and all Aggrieved
23 Employees will be forever barred from pursuing any and all of the Released Claims that arose
24 during the PAGA Period. In addition, Plaintiff (as to himself only) agrees to a Section 1542
25 waiver.²⁴

26
27
28 ²⁴ Settlement Agreement ¶ 2.

1 No individual claims of any SGEs are released, and the only claims released are PAGA
2 claims for civil penalties based on the facts alleged in the Complaint. The California Labor
3 Workforce Development Agency (“LWDA”) is being served with a copy of this motion and the
4 Settlement Agreement through the online process as required by Labor Code § 2699(l), and
5 therefore has notice of this PAGA settlement and motion.²⁵

6
7 **IV. THE PARTIES HAVE SETTLED PLAINTIFF’S PAGA CLAIM**

8 The only claims before this Court are the representative PAGA claims. The parties have
9 agreed to settle the representative claims in their entirety. The settlement is intended to fully and
10 finally resolve the PAGA claim asserted by Plaintiff on behalf of the Settlement Group of allegedly
11 aggrieved employees. This is only a settlement of PAGA claims for civil penalties and is not a
12 class settlement and does not release any individual claims of the Settlement Group. Attorneys’
13 fees equal to 35% of the settlement plus reasonable costs incurred, will be paid to Plaintiff’s
14 counsel as part of the settlement in accordance with Labor Code § 2699(g)(1) as set forth in the
15 Settlement Agreement. Plaintiff’s counsel seeks reimbursement of costs incurred of \$10,000.
16 There is also a payment for Administration capped at \$46,750 to CPT to administer the settlement.

17
18 **V. THE PARTIES REQUEST APPROVAL OF THE PAGA SETTLEMENT**

19 Under PAGA, an aggrieved employee may bring a civil action personally and on behalf of
20 other current or former employees and the State of California to recover civil penalties for Labor
21 Code violations. *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 380. Seventy-
22 five percent of any PAGA penalties go to the LWDA, leaving the remaining twenty-five percent
23 for the employees. *Id.*; see also *ZB, supra* at 275. PAGA is intended to augment the limited
24 enforcement capability of [LWDA] by empowering employees to enforce the Labor Code as
25 representatives of the Agency. *Id.* at p. 383. A judgment in a PAGA action binds all those who
26 would be bound by a judgment in an action brought by the government. *Id.* at 381.

27
28 ²⁵ Cole Decl. ¶ 14.

A PAGA action need not meet the requirements of a class action lawsuit. *Arias v. Superior Court* (2009) 46 Cal.4th 969, 975. A court does not, for example, have a fiduciary duty to protect putative class members. Nonetheless, Labor Code § 2699(l), provides that [t]he superior court shall review and approve any penalties sought as part of a proposed settlement agreement pursuant to [PAGA]. The relief provided in a PAGA settlement must “be genuine and meaningful, consistent with the underlying purpose of the statute to benefit the public.” *Villalobos v. Calandri Sunrise Farm LP* (C.D. Cal., July 22, 2015, No. CV122615PSGJEMX) 2015 WL 12732709, at *13. The settlement must be reasonable in light of the potential verdict value. See *O’Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1135. Courts will generally approve a PAGA settlement upon a showing that the settlement terms are “fundamentally fair, adequate, and reasonable” in light of PAGA’s policies and purposes. See *Jordan v. NCI Grp., Inc.*, (C.D. Cal. Jan. 5, 2018, No. EDCV161701JVSSPX) 2018 WL 1409590, at *3 (finding that proposed settlement of plaintiff’s PAGA claims was fair, adequate, and reasonable in light of the policies and purposes of PAGA); *Flores v. Starwood Hotels & Resorts Worldwide, Inc.*, (C.D. Cal. 2017) 253 F.Supp.3d 1074, 1075 (same, and noting that the California Supreme Court, California legislature, California Courts of Appeal, and LWDA have failed to provide any definitive standard for PAGA settlement approval). A settlement may be substantially discounted, however, given that courts often exercise their discretion to award PAGA penalties below the statutory maximum even when a claim succeeds a trial. See *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 WL 5907869, at *8-9.

A. THE PAGA PENALTIES TO BE PAID ARE FAIR, ADEQUATE AND REASONABLE

The parties believe that the \$1,500,000 settlement amount is fair, adequate and reasonable and, therefore should be approved. This amount compares favorably to the estimated amount of PAGA penalties which Plaintiff calculated to be the maximum amount recoverable for mediation. Plaintiffs calculated that the maximum PAGA penalties that could have been awarded were approximately \$153,658,000. However, this calculation assumes that the aggrieved employees

1 could stack the PAGA penalties for multiple violations in one pay period. Defendant had a strong
2 argument that PAGA only provides for one penalty per employee per pay period. Defendant also
3 argues Courts have broad discretion to deny or significantly reduce PAGA penalties, particularly
4 when the prescribed award would be “unjust, arbitrary and oppressive, or confiscatory.” Indeed,
5 given the astronomically large potential penalty in this case, Defendant would have a strong
6 argument that such an award would be confiscatory and oppressive, and it is likely any Court
7 would significantly reduce any award on that basis. In addition, in order to recover any PAGA
8 penalties, Plaintiff would be required to prove at trial each of the underlying Labor Code violations.
9 See *Cardenas v. McLane Foodservice, Inc.*, 2011 U.S. Dist. LEXIS 13126, *10 (C.D. Cal. 2011)
10 (“Given the statutory language [of PAGA], a plaintiff cannot recover on behalf of individuals
11 whom the plaintiff has not proven suffered a violation of the Labor Code by the defendant.”). Here,
12 Plaintiff would need to prove as to each non-exempt employee that he or she was not properly
13 compensated. While Plaintiff is confident that he could prove violations based on the testimony of
14 aggrieved employees and Defendants own time keeping records and policies, there are no records
15 available recording rest breaks other than that thousands of rest period premiums were paid, and
16 Chipotle’s policies and time keeping records show that meal period penalties were automatically
17 provided to employees for facially violative meal periods.

18 Defendant maintains that it did not engage in the alleged Labor Code violations, that
19 Plaintiff is not an aggrieved employee and that the group of employees identified are not aggrieved
20 employees. Defendant asserts that it maintains lawful policies and practices regarding pay for all
21 time worked, overtime pay, meal breaks, itemized wage statements and final pay.

22 Furthermore, Defendant contends that the claims asserted would be unmanageable due to
23 required individualized analyses regarding all of Plaintiff’s claims. As state and federal courts have
24 held, while PAGA may not contain a manageability requirement per se, courts are empowered to
25 impose one, and this can be especially problematic in cases with a large number of aggrieved
26 employees and/or where the employment circumstances of individual workers vary widely. In
27 those circumstances, courts are empowered to find the action cannot be effectively managed and
28 the PAGA claims can be dismissed on that basis. See *Wesson v. Staples The Office Superstore*,

1 LLC, CA Ct. App., Case No. B302988 (September 9, 2021) (dismissing PAGA claims predicated
2 on overtime exemption claim where trial could take 4-8 years); *Amiri v. Cox Communications*
3 *California, LLC* (C.D. Cal. Sept. 27, 2017) 2017 WL 4400463 (granting motion to strike PAGA
4 claims based on lack of manageability); *Salazar v. McDonald's Corp.* (N.D.Cal. Jan. 5, 2017)
5 2017 WL 88999 (same); *Brown v. American Airlines, Inc.* (C.D. Cal. Oct. 5, 2015) 2015 WL
6 6735217, at *4 (granting motion to strike where claims required “too many individualized
7 assessments to determine PAGA violations concerning overtime pay”); *Bowers v. First Student,*
8 *Inc.* (C.D. Cal Apr. 23, 2015) 2015 WL 1862914, at *4 (granting motion to strike where a
9 “multitude of individualized assessments” for various underlying wage and hour violations
10 rendered claim unmanageable); *Bright v. 99 Cents Only Stores* (Cal. Super. Ct. L.A. County Dec.
11 7, 2011) 2011 WL 12913379 at *2 (granting motion to strike PAGA representative action due to
12 unmanageability).

13 Given Defendant’s potential defenses to the claimed Labor Code violations at issue, and
14 the risks and costs of continued litigation, Plaintiff and his counsel believe that the Settlement
15 Amount is fair, adequate and reasonable. The terms of the settlement were negotiated by
16 experienced counsel at arm’s length before a private mediator, Mariam Zadeh. The LWDA has
17 been provided with notice of this motion and the settlement, and the decision of the Agency to
18 accept the Settlement and not oppose this motion should be given considerable weight. This is not
19 a situation where the Court needs to be concerned about the rights of absent employees as in a
20 class action settlement, as this PAGA- only settlement does not release any individual claims of
21 any of the allegedly aggrieved employees other than Plaintiff’s, and the LWDA has received its
22 statutorily-required notice of the Settlement and is fully able to object to the Settlement if it so
23 chooses.

24 The Settlement amount being paid out here to the LWDA and the SGEs exceeds amounts
25 that have been approved by courts in other cases. For example, in *Franco v. Ruiz Food Products,*
26 *Inc.*, 2012 WL 5941801 (E.D. Cal. 2012), the court approved a total PAGA penalty amount of
27 \$10,000, with the \$2,500 employee portion divided between as many as 2,055 current and former
28

employees. In *Schiller v. David's Bridal, Inc.*, 2012 WL 217001 (E.D. Cal. 2012), the court also approved a PAGA penalty amount of \$10,000, with the \$2,500 employee portion divided between as many as 3,326 individuals. Here, the parties have agreed to a Net Settlement amount of \$910,750, of which 25%, or \$227,687.50 to be divided among the estimated 29,918 employees, at an estimated average of \$7.61 per SGE.

B. The Remaining Settlement Terms Should Be Approved.

Finally, the settlement requires that attorneys' fees, costs, and incentive payment be paid from the common fund. This is appropriate, even in the non-class action context. "California has long recognized, as an exception to the general American rule that parties bear the costs of their own attorneys, the propriety of awarding an attorney fee to a party who has recovered or reserved a monetary fund for the benefit of himself or herself and others. In awarding a fee from the fund or from the other benefited parties, the trial court acts within its equitable power to prevent the other parties' unjust enrichment." *Lafitte v. Robert Half Intern., Inc.* (2016) 1 Cal.5th 480, 561 (approving percentage of recovery method in wage and hour class action); *Fox v. Hale & Norcross Silver Mtn. Co.* (1895) 108 Cal. 475, 476 (approving fee payment from common fund in early derivative case).

A prevailing PAGA plaintiff is entitled to no more than his or her "reasonable [attorney] fees." *Harrington v. Payroll Entertainment Services, Inc.* (2008) 160 Cal.App.4th 589, 594(emphasis in original); Labor Code § 2699(g)(1). Here Plaintiff's counsel seeks 35% of the total settlement, the amount typical in the analogous class action context. *Lafitte, supra* at 488. Indeed, in class actions, "[m]ultipliers can range from 2 to 4 or even higher." *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 255 (emphasis added).²⁶

²⁶ In *Spann v. JC Penney Corporation* (N.D.Cal. Sept. 30, 2016) 307 F.R.D 508 at *14, the first published order to cite to *Lafitte*, that court approved "a 3.07 multiplier, which is well within the range for reasonable multipliers." See also *Vizcaino*, 290 F.3d at 1052–1054 (surveying multipliers in 23 class action suits and recognizing that courts applied multipliers of 1.0 to 4.0 in 83% of surveyed cases); *Parkinson v. Hyundai Motor Am.* (C.D.Cal.2010) 796 F.Supp.2d 1160, 1170 (observing that "multipliers may range from 1.2 to 4 or even higher"); *Hopkins v. Stryker Sales Corp.*, 2013 (N.D.Cal. 2013) 2013 WL 496358, *4 ("Multipliers of 1 to 4 are commonly found to be appropriate in complex class action cases.").

Plaintiff also seeks reimbursement of litigation costs incurred in the amount of \$10,000 (actual costs being \$7,916.39, but a request being made for \$10,000 to cover post-approval efforts in communicating with PAGA aggrieved employees, to ensure compliance by the claims administrator, further court appearances, etc.)²⁷. The requested administration costs of \$46,750 are reasonable and should be approved. Plaintiff's counsel sought bids from three different claims administration companies before settling on CPT Group. CVN also used more competitive bids to seek reductions from CPT, which agreed to lower the cost twice to match the lowest bid.²⁸ The incentive payment sought by Plaintiff here is \$7,500. Plaintiff spent a significant amount of time on this case, signed a general release of all claims, and now can be easily identified as a private attorney general plaintiff by future prospective employers with a simple google search. The amount sought here as an incentive award is modest in comparison with Class Representative Awards routinely granted in the analogous class action context. Plaintiff has submitted a declaration outlining the work he performed in prosecuting these claims on behalf of the state and the other aggrieved employees. The incentive award should be approved.

VI. CONCLUSION

Based on the foregoing, plaintiff respectfully requests that the court approve the settlement agreement and grant the instant motion.

Dated: October 15, 2021

COLE & VAN NOTE

By:



Laura Van Note, Esq.
Attorneys for Representative Plaintiff
and Aggrieved Employees

²⁷ Cole & Van Note Cost Journal attached as Exhibit B to Declaration of Scott Edward Cole, Esq. in Support of Motion for Approval of PAGA Settlement ("SCA Cost Journal").

²⁸ Cole Decl. ¶ 28.

PROOF OF SERVICE

I am over 18 years of age, not a party to the above-captioned action, and am employed by the law firm of Cole & Van Note, 555 12th St., Suite 1725, Oakland, California 94607.

On this date, I served a copy of:

PLAINTIFF'S NOTICE OF MOTION AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT

DECLARATION OF SCOTT EDWARD COLE, ESQ. IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT

[PROPOSED] FINAL JUDGMENT RE: PAGA SETTLEMENT

	By depositing the document(s) with the U.S. Postal Service, with postage fully prepaid, addressed as indicated below, in the ordinary course of business.
	By facsimile transmission to the fax number(s) below, before 5:00 p.m. PST.
	By placing the document(s) in a sealed Federal Express envelope, affixing a pre-paid air bill and delivering it to a Federal Express agent.
	By personal delivery.
X	By e-mail transmission to the e-mail address(es) below.
	By electronic filing using the CM/ECF System which will send a Notice of Electronic Filing to the email address(es) listed in the Electronic Mail Notice List.
	By uploading the document(s) to the third-party document management/service company, court-approved for purposes of this litigation.
	By electronic submission to the Labor and Workforce Development Agency.

on the following person(s):

Steve L. Hernandez, Esq.

Levi W. Heath, Esq.

Ryan Estes, Esq.

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Email: ryan.estes@dlapiper.com

I declare under penalty of perjury under the laws of the United States and the State of California the foregoing is true and correct. Executed in Oakland, California on October 15, 2021.


Nicole Randle