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15 **CALIFORNIA SUPERIOR COURT**
16 **IN AND FOR THE COUNTY OF SANTA CLARA**

17 ANGEL BRAVO and PABLO FLORES,

18 Plaintiffs,

19 V.

20 GALLAHER COMPANY AND ROBERT
21 JOHN GALLAHER AND DOES 1
22 THROUGH 50.

23 Defendants.

Case No: 21CV381912

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' MOTION FOR APPROVAL OF
PAGA SETTLEMENT**

Date: September 18, 2024

Time: 1:30

Dept: 19

Judge: Hon. Theodore C. Zaner

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I. INTRODUCTION

Plaintiffs ANGEL BRAVO and PABLO FLORES (“PLAINTIFFS”) seeks Court approval, pursuant to *Labor Code* § 2699(l), of a settlement of penalty claims under *Labor Code* § 2698 *et seq.*, (“PAGA”), arising from Defendants GALLAHER COMPANY and ROBERT JOHN GALLAHER alleged failures to pay all wages including overtime premiums, provide compliant wage statements, and reimburse employees for expenses incurred, as to fourteen of its workers in addition to PLAINTIFFS and a co-worker named Javier Alejandro Martinez, (“Individual Parties”) for a total of seventeen workers.

Defendants are a maintenance and repair construction company. PLAINTIFFS allege that Defendants would have their small workforce, of approximately 8 to 10 workers at any one time, drive their personal vehicles and on occasion stop at stores prior to and after their paid workday to shop for materials and supplies necessary for work. While an employee can be expected to commute in their personal vehicle without pay - to and from the first work location - time and travel after this must be paid. Moreover, an employee who uses his vehicle for work must be indemnified for the expense and wear and tear of that vehicle.

As will be seen below, after investigating the claim, this matter settled for a mediator’s proposal which paid a confidential amount to both PLAINTIFFS and a participating worker to settle their individual claims, \$45,600 to pay for the PAGA claim including costs of administration, and \$44,400.00 to pay for reasonable attorney’s fees and costs. *See Declaration of Tomas E. Margain in Support of Plaintiff’s Motion for Order Approving Settlement of Labor Code § 2698 et seq. (PAGA) Claims (“Margain Decl.”) at ¶ 4.*

The case settled by compromising both the claims of the Individual Parties, i.e., PLAINTIFFS and a co-worker named Javier Alejandro Martinez, who participated in the litigation, as well as the PAGA claim based on a 14-worker workforce.

Because Defendants required that the individual amounts to the three workers be confidential, the parties are prepared to submit that agreement *in camera* if required. All attorneys’ fees claimed are contained in the \$44,400.00 requested and moved for as part of this motion. Counsel is not getting paid

1 more fees or costs as part of the individual settlements. Moreover, the \$44,400.00 attorneys' fees are
2 being paid from the entire settlement amount which includes individual settlement payments. The fees
3 do not reduce the \$43,600 allocated to the PAGA settlement.

4 With respect to the PAGA claim, it was valued at \$295,050.00 and settled for \$43,600 or
5 15.45% of the value. At the first mediation session, the parties were able to explore who in Defendants'
6 workforce could be eligible to be in the PAGA pool as it a lot of data had to do with workers who were
7 not driving to perform the repairs. It also included workers who were not in the maintenance and repair
8 division. After an investigation, audits, clarification and follow up, the PAGA value was affixed by
9 counsel.

10 This matter is not a Class Action, and only the PAGA claim is at issue in this Approval Hearing.
11 PLAINTIFFS settled their individual case as part of the negotiations. Plaintiffs can provide an
12 accounting of the settlement, but the parties agreed to maintain that confidential. What can be
13 represented is that the individual settlement settled for less than the value affixed by their counsel.

14 **II. FACTS AND PROCEDURAL HISTORY**

15 Defendants GALLAHER COMPANY and ROBERT JOHN GALLAHER (collectively
16 "GALLAHER") are a small construction company and its owner focusing on building maintenance and
17 repair. Most jobs are short term: less than a day or one to three days in length. Workers would be
18 assigned jobs which they usually performed by themselves unless there was a larger job in which
19 workers could rideshare or meet at a jobsite in separate vehicles. Customers varied from homeowners to
20 commercial accounts for property management firms. *Margain Decl.* at ¶¶ 9-10.

21 **A. Claims Made**

22 The claims at issue are that certain workers drove their personal vehicles without the proper
23 payment for mileage reimbursement and went to supply stores to get materials and supplies for work
24 prior to or after a workday without being compensated. This claim involved the two named PAGA
25 Plaintiffs and a participating worker named Javier Alejandro Martinez. PLAINTIFFS alleged the
26 following in the litigation which was the basis of the mediation and compromised amounts:

27 The genesis of the claims is that GALLAHER had certain workers use their personal vehicles,
28

1 primarily pickup trucks, to buy materials and transport them to a jobsite. *Margain Decl.* at ¶¶ 9-15.
2 More often than not, the materials were purchased by workers prior to the start of the paid workday.
3 Workers appear to have been paid for mileage in an *ad hoc* manner prior to the filing of the action. In
4 fact, Plaintiff ANGEL BRAVO (“BRAVO”) never received any mileage pay, nor received any mileage
5 reimbursement form, and Plaintiff FLORES received minimal mileage pay. It appears that when
6 workers received mileage pay, mileage was paid for the distance from the shop in San Jose to a job site,
7 if more than 30 miles were driven from that location, but not for the return trip¹. PLAINTIFFS allege
8 that GALLAHER never paid workers for their time purchasing materials prior to or after their paid
9 workday. This was particularly true for Plaintiff PABLO FLORES (“FLORES”) who would stop at the
10 Gilroy or Morgan Hill Home Depo prior to the start of his workday to purchase items for work.

11 Plaintiff FLORES worked for Defendants for 20 months, approximately between April 15, 2019,
12 to February 16, 2021. Two months into his employment there, FLORES’s supervisor, Ricardo Acuna
13 (“Acuna”), told FLORES that, in order to receive a raise and to be assigned to better jobs, FLORES
14 needed to drive a pickup truck so he could purchase drywalls and materials for the jobs. FLORES was
15 driving a Mazda Six up until then and subsequently bought a pickup truck and used it for work.
16 FLORES lives in Gilroy. On a typical day, FLORES left his house between 6:30AM and 7AM. He
17 would drive to Home Depot in Gilroy or Morgan Hill if he knew the kinds of materials needed for the
18 job of that day. Such materials include drywalls, materials to tape, patch, and texture drywalls, paint,
19 and/or lumber or trims. FLORES would drive with materials to the jobsite, which was usually north of
20 Defendants’ San Jose shop. FLORES worked in Santa Clara, Alameda, and San Mateo counties, as well
21 as San Francisco and Napa counties. Timesheets provided during discovery show that FLORES
22 typically worked between 9AM to 5:30PM, with a 30-minute lunch break. FLORES was not paid for
23 the time shopping for materials before arriving at jobsites at 9AM or the time driving between home
24 improvement stores and jobsites.

25 Plaintiff BRAVO worked for Defendants for about 3 months, from approximately September 4,
26 2020, to December 11, 2020. He used his pickup truck. As BRAVO lived in San Jose, he would go to

27
28 ¹ After the PAGA letter was served on Defendants, based on Discovery and the records of Javier Martinez, workers began receiving mileage in a more structured manner.

1 Home Depot close to Defendants' San Jose shop before the start of his work shift or after going to job
2 locations. However, he also used his truck to haul trash from jobsites frequently back to GALLAHER's
3 shop to discard it. He could also go to paint stores after his work shift to buy paint for the same or the
4 following day.

5 JAVIER ALEJANDRO MARTINEZ (MARTINEZ) worked for Defendants for about a year,
6 from approximately September 27, 2020, to October 10, 2021. MARTINEZ drove a sedan when he first
7 started working for Defendants. His supervisor, Ricardo Acuna, told him about the raise and better job
8 assignments if he had a pickup truck. MARTINEZ bought a small pickup truck in December of 2020
9 and used it for work. Acuna told MARTINEZ to be at job site at 9AM each workday with materials for
10 the job. MARTINEZ lived in Salinas during his employment with Defendants and wanted to use the
11 Home Depot in Morgan Hill on his way to job sites. Instead, he was told to use the Home Depot close
12 to Defendants' San Jose shop, with added travel time to his mornings. When the job site was in San
13 Francisco, MARTINEZ had to leave his home at 6AM to get to the said Home Depot at 6:40AM, in
14 order to arrive at the job site at 9AM with the materials. MARTINEZ had to shop at Home Depot
15 almost every morning of his workdays and was only reimbursed for his mileage from San Jose office to
16 job sites.

17 B. PAGA Exposure

18 Counsel reviewed all records produced. From these records, PLAINTIFFS were able to isolate
19 that there are potentially 14 workers in addition to the Individual Parties who were drivers and could
20 have used their vehicles and performed work prior to and after clocking in and that there were
21 approximately 199 PAGA periods. This leads to a potential PAGA exposure of \$295,000 by assessing
22 nine (9) different penalties. The allocation to PAGA settlement is a payment of \$43,600.00, plus \$2000
23 plan administration expenses. However, the value of the 199 PAGA periods, based on the allocation, is
24 \$219.09 per pay period. *Margain Decl.* at ¶¶ 17, 24-25. This is the equivalent of the assessment of two
25 \$100 penalties per pay period.

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27 C. Procedural History

28 On April 21, 2021, PLAINTIFFS ANGEL BRAVO and PABLO FLORES filed their Complaint.

1 On March 11, 2021, PLAINTIFFS ANGEL BRAVO and PABLO FLORES through counsel filed a
2 PAGA Notice letter with the State of California. On September 7, 2021, a First Amended Complaint
3 was filed alleging the PAGA violation and including the PAGA letter to the LWDA and Defendants. It
4 appears that shortly after receiving the PAGA Notice letter, Defendants changed and formalized their
5 mileage policy.

6 During the Discovery phase on this case, PLAINTIFFS propounded Form Interrogatories and a
7 Demand for Inspection of documents. DEFENDANTS produced 3091 documents. Among the
8 documents produced were PLAINTIFFS time and pay records, the time and pay records of Javier
9 Alejandro Martinez, and as well as the electronic time and pay records workers in the PAGA claim.
10 Credit card receipts as well as mileage and expense records were also produced.

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12 D. Mediation

13 On July 27, 2022, the parties attended a mediation session with Don Sullivan, Esq. an
14 experienced litigator and mediator. The matter did not settle at mediation and Defendants expressed
15 issue with PLAINTIFFS valuation. With the aid of Mr. Sullivan, Defendants then produced transaction
16 records showing when the individual Plaintiffs shopped at Home Depot. Mr. Sullivan then made several
17 follow up attempts and convened a second mediation session with counsel to discuss the data and audits.
18 Mr. Sullivan then made a mediator's proposal to settle the case which was accepted by the parties.
19 *Margain Decl.* at ¶¶ 22-24. The settlement was accepted by PLAINTIFFS after counsel agreed to
20 compromise their fees and to accept less than a 33% contingency.

21 **III. THE PAGA SETTLEMENT NOTICE OF LWDA**

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23 On August 26, 2024, a copy of the moving papers, including the Settlement Agreement, were
24 efiled with the State of California's Labor and Workforce Development Agency LWDA. *Margain Decl.*
25 ¶¶ 8.

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IV. THE PAGA SETTLEMENT

A. PAGA Settlement Fund

The proposed settlement agreement creates a non- reversionary to be distributed as follows:

(a) Forty-Five Thousand Six-Hundred Dollars and Zero Cents (\$45,600.00) as payment to the LWDA from which \$2,000 claim administration expenses will be paid and a projected \$43,600 (“Net PAGA Amount”) will be split among the LWDA (75%) and PAGA aggrieved employees (25%); and

(b) attorneys’ fees not to exceed Forty-Four Thousand Four Hundred Dollars and Zero Cents (\$44,400.00). This is to reimburse counsel \$4,083.00 in costs and to take \$40,317.00 in fees based on a *lodestar* amount of \$91,832.40. Again, these attorneys’ fees do not reduce the Net PAGA Amount.

B. Timing of Payment

Pursuant to the settlement agreement the funding of the settlement is to be made within 30 days and it is anticipated that it will take no more than 90 days to issue checks and address any issues of distributing those checks including uncashed checks. As such, the proposed Order seeks a compliance hearing set for 120 days after the hearing date and a Status Report with a Final accounting due two weeks before the Status Hearing.

C. Released Claims

The Settlement Agreement provides for a release of individual claims and claims for civil penalties under PAGA by the Settling Parties, i.e., PLAINTIFFS and Javier Alejandro Martinez, and the PAGA claims by the PAGA aggrieved employees. The agreement can be submitted *in camera*.

D. Excluded Claims

The Settlement Agreement does not address any individual claims any of the unnamed aggrieved employees may have against Defendants.

E. Administration Process

The Settlement Agreement provides that Phoenix Class Action Administration Solutions will administer the collecting of funds and disbursement of funds to the LWDA, PAGA aggrieved employees, and PLAINTIFFS’ counsel.

Individual PAGA aggrieved employees’ checks shall remain valid and negotiable for one

1 hundred eighty (180) calendar days after the date of their issuance. In the event that the Administrator
2 mails a check to a PAGA member that remains uncashed after one hundred twenty (180) days, such
3 payment shall be sent to the State of California, Controller's Office, Unclaimed Property Division, for
4 further handling on behalf of the PAGA member(s). There will be no reversion of funds to Defendants.

5 **V. ARGUMENT SUPPORTING APPROVAL OF THE PAGA SETTLEMENT TERMS**

6 **A. Standard of Review**

7 Public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3
8 Cal.4th 273.) *Labor Code* § 2699(1)(2) states that "[t]he superior court shall review and approve any
9 settlement of any civil action filed pursuant to this part." Unfortunately, PAGA does not specify a
10 standard of review for PAGA settlements, and there is no published appellate authority on the subject.
11 Existing law does, however, provide some guidance as to the appropriate standard of review. Plaintiff
12 contends that the Court should look to: (1) the standard of review used in analogous statutory schemes;
13 (2) Federal court decisions approving PAGA settlements; and (3) the purposes and policies of PAGA.

14 **B. Analogous Statutory Scheme**

15 A PAGA case is in the nature of a *qui tam* proceeding. (*Iskanian v. CLS Transp. Los Angeles*
16 *LLC* (2014) 59 Cal.4th 348, 382.) Two analogous California statutory schemes, whereby an individual
17 may sue on behalf of the State or in the public interest, exist which may provide some guidance: The
18 California False Claims Act and Proposition 65. Under both schemes, a court must approve a settlement
19 or dismissal of the action. Under the California False Claims Act, a *qui tam* plaintiff may only dismiss
20 the case with a court's (and the government's) consent. (*Gov't Code* § 12652(c)(1).) In deciding whether
21 to give consent, a court must take into account "the best interests of the parties involved and the public
22 purposes behind the act." (*Id.*) While PAGA does not give the right to PAGA aggrieved employees to
23 object to the instant PAGA settlement, if a *qui tam* plaintiff objects to a *qui tam* settlement between the
24 government and a defendant, the court can approve the settlement after finding it is "fair, adequate, and
25 reasonable under all the circumstances." (*Gov't Code* § 12652(e)(2)(B).) Proposition 65 (Safe Drinking
26 Water and Toxic Enforcement Act of 1986) actions, like PAGA actions, are brought by private
27 PLAINTIFFS to "vindicate public rights." *Moniz v. Adecco U.S, Inc.* (2021) 72 Cal.App.5th 56, 77,
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1 quoting *Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th at
2 62.) “[A] trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and
3 adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to
4 maximize enforcement of state labor laws.” (*Id.*)

5 **C. Purposes and Policies of PAGA**

6 “The Legislature’s sole purpose in enacting PAGA was to augment the limited enforcement
7 capability of the [LWDA] by empowering employees to enforce the *Labor Code* as representatives of
8 the Agency.” (*Kim v. Reins International California, Inc.* (2020) 9 Cal.5th 73, 86.) The California
9 Legislature passed PAGA because they believed it is necessary “to achieve maximum compliance with
10 state labor laws” and “to ensure an effective disincentive for employers to engage in unlawful and
11 anticompetitive business practices.” (2003 Cal. Legis. Serv. Ch. 906 § 1(a).) While self-policing efforts
12 have had some success, the California Legislature found that “in other cases the only meaningful
13 deterrent to unlawful conduct is the vigorous assessment and collection of civil penalties as provided in
14 the *Labor Code*.” (*Id.* at § 1(b).) Through PAGA, the Legislature thus: (1) sought to “enlist[] willing
15 citizens in the task of private enforcement,” (*Iskanian*, 59 Cal.4th at 390); (2) “deputized” aggrieved
16 employees to sue on behalf of the State to enforce state labor laws; and (3) authorized them to recover
17 civil penalties, attorneys’ fees, and costs. (2003 Cal. Legis Serv. Ch. 906 (Legislative Counsel’s
18 Digest).) In bringing a PAGA action, “[t]he employee-plaintiff acts as the proxy or agent of the state
19 labor enforcement agencies, representing the same legal right and interest as those agencies”
20 (*Iskanian*, 59 Cal.4th at 394.) As for the interests of the LWDA, whom the plaintiff acts as an agent of,
21 its top enforcement priorities are “to vigorously enforce minimum labor standards in order to ensure
22 employees are not required or permitted to work under substandard unlawful conditions” and to
23 “protect employers who comply with the law from those who attempt to gain a competitive advantage at
24 the expense of their workers by failing to comply with minimum labor standards.” (*Labor Code*
25 §90.5(a).)

26 In light of the above law, as well as the policies and purposes of PAGA, Plaintiff proposes that
27 the Court consider the following factors in determining whether to approve the PAGA settlement: (1)
28 Whether the settlement is otherwise “just” and “in the public interest”, (2) The extent to which the

1 settlement achieves compliance with state labor laws, and (3) The extent to which the settlement deters
2 violations of the state labor laws.

3 **D. Settlement Should be Approved as it is “Just” and “In the Public Interest”.**

4 The Defendants, a small employer, have agreed to pay a significant amount, Forty-Five Thousand
5 Six-Hundred Dollars and Zero Cents (\$45,600.00), in civil penalties to the LWDA from which claim
6 administration expenses will be paid and a projected \$43,600 will be split among the LWDA (75%) and
7 PAGA aggrieved employees (25%). This is based on an exposure model with 17 workers for \$295,000
8 on the assessment of nine (9) different penalties. The model was based on 199 payroll periods for these
9 14 workers. The breakdown of the \$43,600.00 total can also be viewed as a payment of \$219 for each
10 workweek of PAGA exposure.

11 The settlement amount of PAGA penalties here provides an even bigger benefit to the LWDA and
12 PAGA aggrieved employees than allocations that have been approved in other PAGA settlements. (See,
13 e.g., *Viceral v. Mistras Grp. Inc.* (N.D. Cal. Oct. 11, 2016, No. 15-CV-02198- EMC) 2016 WL 5907869,
14 at *8 [approving an allocation of \$20,000 of a \$6,000,000 settlement to the PAGA civil penalties]); In *re*
15 *Uber FCRA Litig.* (N.D. Cal. June 29, 2017, No. 14-CV-05200) 2017 WL 2806698, at *2 [approving an
16 allocation of \$7,500 of a \$7,500,000 settlement to the PAGA civil penalties].)

17 Here counsel took into consideration the value of PLAINTIFFS exposure and reached a settlement
18 for less than the value. The PAGA claim was settled for \$45,600 because it was not going to be used as
19 a token amount or a token settlement to get leverage. However, during arm’s length adversarial
20 negotiations, including the acceptance of a mediator’s proposal, PLAINTIFFS were also not going to
21 further waive the value of their individual claims to settlement matter. The \$45,600 allocation to PAGA
22 civil penalties, is “just” and “in the public interest” as Defendants 1) changed their employment practices,
23 2) substantially compensated PLAINTIFFS for their individual claims, 3) not financially ruin Defendants
24 so that, as a small business, continue to operate and employ their workers. As such, reaching a settlement
25 of \$45,600 for PAGA liability is fair and reasonable.

26 **E. Attorney’s Fees and Costs as Part of Settlement**

27 **1. Attorneys’ Fees and Costs Are Recoverable Under PAGA.**

28 The right of PLAINTIFFS’ counsel to attorneys’ fees and costs is mandatory under the PAGA.

(See *Labor Code* § 2699(g)(1).) They are also discretionary under California *Code of Civil Procedure* § 1021.5 (codifying the private attorney general doctrine adopted in *Serrano v Priest* (1977) 20 Cal.3d 25), which states: "a court may award attorneys' fees to a successful party against one or more opposing parties in any action which has resulted in the enforcement of an important right affecting the public interest if [among other things] a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons." Here, while there was no trial on the merits, the parties entered into a settlement agreement which allows Plaintiffs' counsel to seek Forty-Four Thousand Four Hundred Dollars (\$44,400.00).

2. Attorneys' Fees and Costs Can be Paid by The Common Fund

PAGA cases are routinely settled, and as seen above, at a substantial discount as part of class action settlements. Here, this was a PAGA only case. Either way, this raises, as California Appellate Court and Federal guidance refer to, a "common fund" or "common benefit" doctrine under which attorneys who create a common fund or benefit for a group of persons may be awarded their fees and costs to be paid out of a settlement fund. (*Serrano* 20 Cal.3d at 34, quoting *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1.) When the prosecution of a matter results in the creation of a common fund, a court can and should award attorney fees and costs from that fund. The reason is "that persons who obtain the benefit of a lawsuit without contributing to its cost are unjustly enriched at the successful litigant's expense. In *Glendale City Employees' Association v. City of Glendale* (1975) 15 Cal.3d 328, 341 fn.19, the California Supreme Court upheld an attorneys' fee award based on a percentage of the common benefit obtained in a lawsuit by a city employees' association for retroactive wages.

The PAGA penalty fund was created for the benefit of the State of California and all aggrieved employees.

The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation convince us the percentage method is a valuable tool that should not be denied our trial courts. *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 561. (approving percentage of recovery method in wage and hour class action)

In light of the above law, there is no principled reason that a fee application arising from a PAGA-only common fund settlement should be treated differently than other common fund

1 settlements. Accordingly, Plaintiffs' counsels' fees and costs are properly paid from that common
2 fund.

3 **3. A Lodestar Cross Check Supports the Fee Award from the Common Fund.**

4 If the Court chooses to perform a lodestar cross-check in this case, such a cross-check will
5 confirm the reasonableness of PLAINTIFFS' fee request. In calculating an initial lodestar figure, a court
6 considers: (1) the reasonable hours spent; and (2) the prevailing hourly rates for "private attorneys in the
7 community conducting *non- contingent* litigation of the same type." (*Ketchum v. Moses* (2001) 24
8 Cal.4th 1122, 1134 (emphasis in original).) These facts may be established through a declaration by
9 counsel. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254-55 (relying on Plaintiffs'
10 counsel's declarations as sufficient evidence to demonstrate the appropriate hourly rate).)

11 In calculating attorneys' fees, the Court should follow the lodestar approach adopted by the
12 California Supreme Court in *Serrano v. Priest (Serrano III)* (1977) 20 Cal.3d 25. This lodestar method
13 of determining attorney's fees awards – including discretion to award fee enhancements – is “well
14 established under California law.” (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1137.) Under
15 California's lodestar method, the court obtains the lodestar amount by multiplying the hours worked by
16 a reasonable hourly rate. (*Serrano III, supra*, 20 Cal.3d at 48; *Press v. Lucky Stores, Inc.* (1983) 34
17 Cal.3d 311, 321-322.) The lodestar amount may then be increased to account for the risk inherent in the
18 contingency litigation of *Labor Code* cases. The fees requested essentially amounts to less than half of
19 PLAINTIFFS' counsels' lodestar.

20 **4. PLAINTIFFS Should Be Reimbursed Costs from the Common Fund.**

21 PLAINTIFFS' counsel has incurred, to date, \$4,083.00 in hard costs attributable to the settled
22 claims against Defendants. ((*Margain Decl.*) ¶ 22.) (*Labor Code* § 2699(g) (allowing recovery of costs);
23 *In re Omnivision Technologies, Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036 ("Attorneys may recover their
24 reasonable expenses that would typically be billed to paying clients in non-contingency matters."); *In re*
25 *Media Vision Tech. Sec. Litig.* (N.D. Cal. 1996) 913 F.Supp. 1362, 1366 ("Reasonable costs and
26 expenses incurred by an attorney who creates or preserves a common fund are reimbursed proportionally
27 by those class members who benefit by the settlement.")).

1 Accordingly, PLAINTIFFS' counsel requests reimbursement of its hard litigation costs as it
2 relates to the settled claims in the amount of \$4,083.00.

3 **VI. CONCLUSION**

4 For the above reasons, the Court should approve the proposed PAGA Settlement Agreement as
5 the terms are “just”, are “in the public interest” and achieve the objects sought by the California
6 Legislature in enacting PAGA.

7 Respectfully Submitted,

8 *Tomas Margain*

9 Dated: August 26, 2024

10 Tomas E. Margain
11 Xiaoming Liu
12 Attorney for Plaintiffs
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